

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

PECO ENERGY COMPANY

Employer

and

Case 4–RC–20513

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL EMPLOYEES, AFL-CIO on  
behalf of INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL EMPLOYEES LOCAL NO. 614<sup>1</sup>

Petitioner

**REGIONAL DIRECTOR’S DECISION AND  
DIRECTION OF ELECTION**

The Employer, PECO Energy Company, is a wholly-owned subsidiary of Exelon, Inc. PECO transmits, distributes and sells electricity in Philadelphia and the adjoining suburban Pennsylvania counties of Bucks, Chester, Delaware and Montgomery. It also sells and distributes natural gas in the four suburban counties, but not in Philadelphia.

Petitioner seeks to represent a unit of PECO’s production and maintenance employees. While PECO agrees that a production and maintenance unit is appropriate, it seeks to include a number of job classifications which Petitioner wishes to exclude. The parties disagree over the placement of the following groups of employees:

- 1) *One Hundred Fifty-Four Customer Consultants and 19 Small Business Consultants assigned to the Business Account Services and Business Operations groups and 25*

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<sup>1</sup> Petitioner’s name appears as amended at the hearing.

*Customer Consultants working in the Back Office area of the Support Services group in the Customer and Marketing Services Department.* Petitioner argues that these employees are office clericals who should be excluded from the unit. The Employer contends that they are plant clericals who should be included. As I will explain in greater detail below, I am finding that these Small Business and Customer Consultants are office clericals who should be excluded.

2) *Eight High Bill Consultants and a Junior Analyst assigned to the Support Services group along with seven Customer Consultants who work with the High Bill Consultants.* The Employer would include these employees in the unit. Petitioner would exclude them. I find that the High Bill Consultants share a sufficient community of interest with unit employees to require their inclusion. In the case of the Junior Analyst and Customer Consultants, on the other hand, I find that they are office clericals who should be excluded.

3) *Two Meter Services Clerks and four Billing Consultants working in the Meter Services group of the Accounts Receivable section of the Customer and Marketing Services Department.* The Employer would include these employees as plant clericals, while Petitioner seeks their exclusion on the theory that they function as office clericals. I find that they are plant clericals who should be placed in the unit.

4) *Two Customer Consultants, two Contractor Liaisons and a Work Process Clerk who work at a Customer Desk (the Desk) which is part of the Distribution Operations group in the Customer Response section of the Operations Department.* The Employer seeks to include the employees working at the Desk as plant clericals. Petitioner opposes their inclusion. I find that any employees permanently assigned to the Desk are office clericals who should be excluded from the unit, but that employees working at the Desk on a temporary basis should vote subject to challenge since the record does not indicate whether they have a reasonable expectation of returning to unit positions.

5) *Systems Manager Ed Donegan, who is presently employed on a temporary basis in the Outage Planning group in the Customer Response section.* The Employer argues that Donegan should be included in the unit, while Petitioner seeks to exclude him. I will permit Donegan to vote subject to challenge since the record does not contain a sufficient description of either his present duties or future prospects to permit a determination of his status.

6) *Six Damage Prevention Inspectors who work in the Dig Safe group of the Customer Response section.* Adopting the Employer's positions, I find that the Damage Prevention Inspectors have a sufficient community of interest with unit employees to require their inclusion in the unit.

7) *Seven Work Process Clerks and an Engineering Assistant in the Operations Planning and Analysis group of the Customer Response section.* Petitioner claims these employees are office clericals. The Employer maintains that they are plant clericals who should be included in the unit. I find the employees to be office clericals who should be excluded from the unit.

8) *Three Work Process Clerks in the Distribution Engineering, Systems Planning and Customer Engineering and Gas Engineering groups of the Engineering Services section of the Operations Department.* Petitioner contends that the Work Process Clerks are office clericals, while the Employer maintains that they should be included in the unit as plant clericals. I find that the Work Process Clerks are office clericals and exclude them from the unit.

9) *Thirty-Four Drafters, eight Equipment Update Clerks and eight Records Clerks in the Mapping and Document Services group of the Engineering Services section.* The Employer seeks to include the Drafters as technical employees who share a community of interest with other unit employees and the Equipment Update Clerks and Records Clerks as plant

clericals. Petitioner would exclude the employees in all three classifications. I shall include these employees.

10) *A Maintenance Assistant employed in the Maintenance group of the Transmission and Substation section of the Operations Department.* The Employer argues that the Maintenance Assistant shares a sufficient community of interest with the unit to require his inclusion, while Petitioner adopts a contrary position. I find that the Maintenance Assistant should be included.

11) *Six Drafters and four Designers in the Engineering and Design group of the Transmission and Substation section.* The parties agree that these employees should be classified as technical. The Employer argues that they share a sufficient community of interest to compel their placement in the unit. Petitioner takes the opposite position. I include these Drafters and Designers in the unit.

12) *Six Work Process Clerks and a Junior Analyst in the Work Management group of the Transmission and Substation section.* The Junior Analyst is currently working on a temporary basis as a Work Week Manager, a position the parties have agreed to exclude from the unit. Petitioner argues that the Junior Analyst should also be excluded since he presently occupies a non-unit job and that the Work Process Clerks should be regarded as office clericals. The Employer seeks to classify the Work Process Clerks as plant clericals and contends that the Junior Analyst should be included in the unit because he will eventually return to a unit position. I exclude the Work Process Clerks as office clericals and permit the Junior Analyst to vote subject to challenge because the record is insufficient to permit a finding as to whether he will ultimately be returned to a unit position.

13) *Twenty-One Contractor Liaisons in the Contractor and Builder Services groups of the BucksMont, DelChester and Philadelphia Regions within the Operations*

*Department.* The Employer argues that the Contractor Liaisons are technical employees who share a sufficient community of interest to require their inclusion in the unit. Petitioner claims they are office clericals. I find that the Employer has failed to establish that the Contractor Liaisons are technical employees, but I include them in the unit as plant clericals.

14) *Twenty-Nine Designers and Gas Design Technicians and three Engineering Assistants employed in Regional Design and Engineering groups.* I find that the Designers and Design Technicians are technical employees who share a sufficient community of interest with unit employees to require their inclusion and that the Engineering Assistants should be included in the unit as plant clericals.

15) *Twenty-Nine Work Process Clerks and two Junior Analysts working in Regional Work Management groups.* Adopting Petitioner's stance, I exclude these employees as office clericals.

16) *Six Maintenance Assistants assigned to Regional Operations groups.* The Employer argues that the Maintenance Assistants are technical employees who share a community of interest with unit employees and should be placed in the unit. Petitioner opposes their inclusion. I find it unnecessary to determine whether the Maintenance Assistants qualify as technicals, since I conclude that, regardless of whether they enjoy such status, they share a sufficient community of interest with the unit to compel their inclusion.

17) *Designer Leo Clampffer who is assigned to the Project Management group of the Contractor and Project Management section of the EED Support Services Department.* Although Clampffer is classified as a Designer, he functions as a Lead Responsible Engineer, a position the parties have agreed to exclude from the unit. Agreeing with Petitioner, I find that Clampffer should also be excluded because he currently occupies a non-unit position and there is no evidence the Employer intends to return him to a unit job.

18) *Three Paving Inspector/Coordinators working in the Construction and Maintenance group of the Contractor and Project Maintenance section.* Adopting Petitioner's view, I find that the Paving Inspectors do not have a sufficient community of interest with unit employees to compel their inclusion in the unit.

19) *Material Process Clerk Lola Hankerson, who is also assigned to the Construction and Maintenance group in the Contractor and Project Maintenance section.* I agree with Petitioner and find that Hankerson is an office clerical who should be excluded from the unit.

20) *Electric Shop Junior Analyst Joe Fragala.* Agreeing with the Employer, I find Fragala is a plant clerical who should be included in the unit.

21) *Two Material Process Clerks assigned to the Supply Services East group in the Supply Chain Management section of the EED Support Services Department.* In agreement with Petitioner, I find these Clerks to be office clerical employees and exclude them from the unit.

22) *Three Lab Technicians working in the Environmental and Field Services group in the Supply Chain Management section.* Adopting the Employer's view, I find that the Lab Technicians share a sufficient community of interest to compel their inclusion in the unit.

This is the third occasion on which there has been litigation over which segments of the Employer's operations constitute an appropriate bargaining unit and which employees should be included in such a unit. Both of the earlier cases occurred before the merger in 2000 of PECO Energy Company and Commonwealth Edison to form Exelon, Inc. Prior to the merger, PECO was a separate entity which engaged in the generation of electric power as well as in the transmission and distribution of electricity and natural gas. Following the merger, PECO's

generation business was spun off into a separate corporate subsidiary, leaving PECO with only the transmission and distribution operations.

The first of the earlier cases involving PECO originated in 1995 when the Utility Employees of America and a Local of the International Brotherhood of Electrical Employees other than Petitioner sought to represent separate units of employees at PECO generating facilities. PECO argues that only a system-wide unit which included all of its production and maintenance employees was appropriate. The Board found that a less than system-wide unit could be appropriate and directed elections in units which corresponded with distinct administrative segments of the PECO operations. The Board's decision also resolved a number of issues concerning the unit placement of clerical and technical employees working in what were at the time PECO's power generation operations. See *PECO Energy Company*, 322 NLRB 1074 (1997).

In 1997, the then Acting Regional Director for Region Four, ruling on a petition filed by the Utility Employees, found appropriate a unit limited to production and maintenance employees in PECO's transmission and distribution operations. See, *PECO Energy Company*, 4-RC-18718 (1997). This is essentially the same unit which the parties in this case agree is appropriate. The Acting Regional Director also resolved a number of issues of unit placement, some of which involve employees whose duties are similar to those performed by the individuals whose status is contested here.<sup>2</sup>

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<sup>2</sup> Unfortunately, the titles and/or duties of many positions have been altered in the five years since this 1997 Decision, making it difficult to rely on the Decision in resolving the issues presented by this case.

## **I. AN OVERVIEW OF PECO'S OPERATIONS**

The Employer is headquartered at 2301 Market Street in Philadelphia. It is divided into nine departments, each headed by a Vice President. The parties agree that all of the employees in five of the departments – Human Resources, Regulatory Communications and External Affairs, Information Technology, Electric Supply and Transmission and Finance – should be excluded from the unit sought by Petitioner. They also agree that the only employees in the Gas Supply and Transportation Department who should be included in the unit are eight Plant Operations Mechanics who work at a propane and natural gas plant in West Conshohocken, Pennsylvania. The disputes between the parties are limited to the employees in three PECO departments – Customer and Marketing Services, Operations, and EED Support Services.

**The Customer and Marketing Services Department.** Frank Jiruska is the Vice President in charge of the Customer and Marketing Services Department. Seven sections, each headed by a Director, report to Jiruska. The parties agree that all of the employees in five of these sections should be excluded from the unit. The Call Center and Accounts Receivable are the only sections in which employees in disputed classifications are employed.

**The Call Center.** The Call Center handles public inquiries and refers them to the appropriate segment of the PECO organization. Dorothy Gabriel serves as the Director for the Center, which is at the Employer's headquarters. The Center is subdivided into four groups, each of which has a Manager reporting to Gabriel. Petitioner would exclude all Call Center employees from the unit. The Employer claims that some of the employees in three of the four Call Center groups – Business Operations, Business Account Services and Support Services – should be included.

Cindy Patterson is the Manager of the Business Operations group. Reporting to Patterson are two lead supervisors, 11 supervisors and, 154 Customer Consultants. The Business Account

Services group consists of Manager E. McCrane and 19 Small Business Consultants. Support Services includes Manager Paul Corey, four supervisors, two analysts, five clerks, 32 Customer Consultants, eight High Bill Consultants and a Junior Analyst. The Employer argues that Customer Consultants, Small Business Consultants, High Bill Consultants and the Junior Analyst should be included in the unit. Petitioner disagrees. The parties agree that the remaining Call Center employees should be excluded.

**Accounts Receivable.** Accounts Receivable is the second Customer and Marketing Services section which includes disputed classifications. Accounts Receivable is responsible for billing PECO customers and collecting the money they owe for the services PECO provides. William Sullivan serves as the Director for the section, the bulk of which is located in PECO headquarters in Philadelphia. The only exception is a Meter Services group which operates from a PECO facility in Berwyn, Pennsylvania. The Employer initially claimed that a number of Accounts Receivable employees should be included in the unit sought by Petitioner, but modified its position during the hearing and is now disputing the placement of just two classifications in the Meter Services group.

Meter Services installs, tests and repairs the meters used to measure the amounts of gas and electricity purchased by PECO customers. Meter Services employees also investigate reports of customer theft of services. Tim Shannon is the Manager of the Meter Services group. Reporting to Shannon are three foremen, two analysts, two engineers, two Meter Services Clerks, four Billing Consultants, a Metering Design and Construction Consultant (D&CC), 14 Revenue Protection Technicians, and 23 Meter Technicians. The parties agree that the foremen, analysts and engineers should be excluded and the Metering D&CC, Revenue Protection Technicians and Meter Technicians included in the unit. They disagree over the placement of

the Meter Services Clerks and Billing Consultants, with the Employer insisting they should be in the unit and the Petitioner claiming they should be out.

**The Operations Department.** Dennis O'Brien serves as the Vice President for this Department, which contains the vast majority of unit employees and many of the classifications disputed by the parties. Operations is divided into six sections – Customer Response, Engineering Services, Transmission and Substations and the Philadelphia, BucksMont and DelChester Regions. Each of the sections contains both unit employees and disputed classifications.

**Customer Response.** Terry Donnelly is the Director of Customer Response, which is headquartered in a PECO facility located in Plymouth Meeting, Pennsylvania (the Plymouth Meeting Service Building). There are five groups within Customer Response – Field Operations, Outage Planning, Operations Planning and Analysis, Dig Safe and Distribution Operations.

Field Operations is responsible for handling emergencies involving gas or electric service which occur anywhere within the area serviced by PECO. The parties agree that the 214 Energy Technicians, Power Quality Technicians, Linemen and Maintenance Technicians who respond to the emergencies should be included in the unit. They also agree that the supervisors and foremen assigned to this group should be excluded. There are no disputed classifications in the Field Operations group.

Located in the Plymouth Service Building, the Distribution Operations group dispatches Field Operations employees to emergencies. The dispatching is done by 48 Systems Dispatchers. The parties agree that the Systems Dispatchers should be excluded from the unit. The Distribution Operations group also includes a Customer Information Desk (the Desk) which handles calls from police and fire departments in the suburban counties serviced by PECO and

relays information regarding emergencies to the appropriate groups within the PECO organization. The Desk is staffed by a Systems Dispatcher, two Customer Consultants, two Contractor Liaisons, and a Work Process Clerk. The parties agree that the Dispatcher assigned to the Desk, like the other Dispatchers in Distribution Operations, should be excluded from the unit. Contrary to the Petitioner, the Employer would include the remaining Customer Desk employees.

The Outage Planning group issues orders to de-energize portions of the PECO electrical distribution system so repairs can be effected and monitors the system for problems with both electrical circuits and gas lines. The parties agree that Outage Planning Manager Craig Sidebottom, the eight Systems Dispatchers, and three of the four Systems Managers assigned to Outage Planning should be excluded from the unit. They disagree over the placement of Systems Manager Ed Donegan, with the Employer arguing that he should be in the unit and Petitioner seeking to exclude him.

The Dig Safe group monitors that work of contractors hired by PECO to mark underground gas and electric lines prior to excavation work. The group consists of Manager John Kane, two supervisors, an analyst, and six Damage Prevention Inspectors. The Damage Prevention Inspectors are responsible for visiting sites to make certain the marking is properly handled. The parties agreed that Kane, the supervisors and the analyst should be excluded from the unit. The Employer would include the Inspectors, while Petitioner would exclude them.

Operations Planning and Analysis is the final group within Customer Response. Situated in the Plymouth Service Building, employees in Operations Planning support the work of the other employees in Customer Response. The group includes Manager Susan Palena, a Project Manager, four Operations Analysts, four Work Week Managers, seven Work Process Clerks,

and an Engineering Assistant. Petitioner would exclude the entire group from the unit. The Employer seeks to include the Work Process Clerks and the Engineering Assistant.

**Engineering Services.** The Engineering Services section of the Operations Department provides a centralized engineering function for the PECO organization. The section is broken down into six groups. The Mapping and Document Services group updates and maintains the prints and other records showing the layout and location of PECO equipment and facilities. The Application Support group assists in the utilization of information technology. The Distribution Engineering group evaluates the performance of equipment. The System Planning and Customer Engineering group monitors the PECO system to make certain that capacity is adequate and reviews the design of customer projects to ensure they are compatible with the system. The Corrosion Control group monitors PECO's gas lines for leaks and corrosion. The Gas Engineering group evaluates the performance of gas system equipment and deals with the impact of customer projects on PECO gas facilities. All Engineering Services employees work from the Plymouth Service Building with the exception of a group of Corrosion Control Mechanics who work in the Corrosion Control group.

The parties agree that all of the employees in the Application Support group should be excluded from the unit. They also agree that the 12 Corrosion Control Mechanics are the only employees in the Corrosion Control group who should be included. Petitioner contends that all of the employees in Mapping Services, Distribution Engineering, Customer Engineering and Gas Engineering should be excluded. The Employer would include all of these employees.

The Mapping and Document Services group consists of Manager Robert Baxley, three supervisors, two Analysts, 34 Drafters, eight Equipment Update Clerks, and eight Records Clerks. The Employer agrees with Petitioner that Baxley, the supervisors and Analysts should

be excluded from the unit, but seeks to include the Drafters and the Equipment Update and Records Clerks.

The Distribution Engineering group includes Manager Richard Cornforth, 11 Engineers, three Analysts and a Work Process Clerk. The Systems Planning and Customer Engineering consists of Manager Kathleen McHugh, 16 Engineers and a Work Process Clerk, while the Gas Engineering group is comprised of Manager John Frank, seven Engineers, an Analyst and a Work Process Clerk. The Employer would exclude all of the employees in these groups with the exception of the Work Process Clerks, which it seeks to add to the unit. The Petitioner would exclude the Work Process Clerks, as well as the other classifications.

**Transmission and Substations.** This section of the Operations Department is responsible for maintaining both the overhead transmission lines, which carry high voltage electricity from the plants where the electricity is generated, and the approximately 900 substations in the PECO operational area at which the voltage is lowered for distribution to PECO customers. The section is headquartered in the Berwyn Service Building, although employees assigned to the section work throughout PECO's territory.

The Transmission and Substation section is subdivided into four groups: Relay and Protection Services; Engineering and Design; Work Management; and Maintenance. The Maintenance group includes most of the employees who work on PECO's transmission lines and substations. This group consists of Manager David MacFarland, an Administrative Assistant, a Maintenance Assistant, four supervisors, 20 foremen, 13 Line Mechanics, six Engineering Technicians and 60 Maintenance Technicians. The parties agree that MacFarland, the Administrative Assistant, the supervisors, and the foremen should be excluded and that the Line Mechanics and Engineering and Maintenance Technicians should be included in the unit. There

is a dispute over the placement of the Maintenance Assistant, with the Employer seeking his inclusion and Petitioner taking an opposing position.

The Relay and Protection Services group installs and tests “relay schemes” and “reclosers,” devices which function as circuit breakers for PECO’s transmission facilities. The group is also responsible for monitoring and repairing the computer system which regulates circuit voltage. The parties agree that 15 Engineering Technicians assigned to this group should be included in the unit and that the group’s remaining employees – supervisors, engineers and Master Technicians – should be excluded. There are no disputed classifications in the Relay and Protection Services group.

Petitioner would exclude all of the employees in the two remaining Transmission and Substation groups – Engineering and Design and Work Management. The Engineering and Design group designs and engineers the Employer’s transmission and substation equipment. It is headquartered at PECO’s Berwyn facility, although some of the employees assigned to the group spend much of their time out of the office. The group consists of Manager Vince Curco, 11 Engineers, two Engineering Analysts, Design Supervisor Lawrence Allen, three Parts Specialists, six Designers, and four Drafters. The Employer takes the position that the Designers and Drafters should be included in the unit.

The Work Management group is also based in Berwyn. It has responsibility for scheduling the work of other Transmission and Substation employees. The group consists of Manager John Sweriduk, four Work Week Managers, a Project Manager, a Work Coordinator, an Operations Analyst, a Junior Analyst and six Work Process Clerks. The Employer argues that the Junior Analyst and Work Process Clerks should be included in the unit.

**The Region.** The remainder of the Operations Department consists of three Regions, each of which is responsible for maintaining the distribution facilities in a portion of the area

served by PECO. The Philadelphia Region is headquartered in a PECO building located on Christian Street in Philadelphia (the Christian Service Building), although employees attached to the Region also report to buildings situated on Oregon and Luzerne Avenues (the Oregon and Luzerne Service Buildings). As the name suggests, this Region is responsible for facilities within the City of Philadelphia.

The BucksMont Region handles work in Bucks and Montgomery Counties. This Region is based in Warminster, Pennsylvania (the Warminster Service Building), but has employees who report to four other facilities – the Emily Service Building, the Doylestown Service Building, the Phoenix Service Building and the North Wales Service Building. The DelChester Region services Delaware and Chester Counties and is based in Coatesville, Pennsylvania (the Coatesville Service Building). Employees assigned to this Region also report to facilities in Baldwin, Phoenixville, West Chester and West Grove, Pennsylvania (the Baldwin, Phoenix, West Chester and West Grove Service Buildings).

Each Region is divided into four groups – Contractor and Builder Services, Regional Engineering and Design, Work Week Management and Maintenance. The Contractor and Builder Services groups deal with outside contractors and builders seeking new or modified service. The Regional Engineering groups design system improvements to facilities within the Regions. Work Management schedules the work to be done by Regional personnel and Maintenance performs the work.

The parties agree that the unit should include the approximately 600 Mechanics assigned to the Regional Maintenance groups. They also agree to the inclusion of about 30 Design and Construction Consultants who work in the Regions' Contractor and Builder Services groups. There is further agreement on the exclusion of engineers and analysts assigned to the Regional Engineering groups; Work Coordinators, Work Managers and Operations Analysts working in

the Work Management groups; and supervisors, foremen and Administrative Assistants included in the Maintenance groups. In dispute are 21 Contractor Liaisons working in the Builder Services groups; 29 Designers and three Engineering Assistants assigned to the Regional Engineering groups; 29 Work Process Clerks and two Junior Analysts in the Work Management groups; and six Maintenance Assistants who work in the Maintenance groups.

**The EED Support Services Department.** Headed by Vice-President Craig Adams, this Department provides logistical support for Operations. It is divided into six sections – Contractor and Project Management, Fleet Services, Training and Methods, Environmental Safety and Industrial Hygiene, Supply Chain Management, and Real Estate and Facilities. Department Vice-President Adams is based in Berwyn along with the Directors of Supply Chain Management and Fleet Services. The Director of Contractor and Project Management has an office in the Warminster Service Building. The Director of Environmental Safety and Industrial Hygiene is located in a PECO facility in West Conshohocken, Pennsylvania. The Director of Real Estate and Facilities is situated in PECO headquarters on Market Street in Philadelphia. The Director of Training works from offices in Chicago, Illinois.

The parties are in agreement on the exclusion of all employees in the Training and Methods section. Fleet Services repairs and maintains the vehicles used by other PECO personnel. The parties agree that the approximately 55 Mechanics who perform repairs should be included in the unit and that the remaining Fleet Services employees should be excluded. There are no disputed positions in Fleet Services.

There are also no disputed positions in the Real Estate and Facilities section,<sup>3</sup> which manages PECO's buildings and real estate. The parties agree that the approximately 30 technicians and mechanics who perform the repair and maintenance work should be included in

the bargaining unit and that the remaining Real Estate and Facilities employees should be excluded.

The three remaining EED Support Services sections include employees whose status is disputed. The Contractor and Project Management section is divided into five groups, only two of which – Project Management and Construction and Maintenance – contain disputed classifications. Project Management coordinates the engineering and design of major construction projects and manages the projects. This group consists of Manager Maureen Byers, a Project Leader, five Lead Installation Representatives, five Lead Engineers, 12 Project Managers, and Designer/Engineer Leo Clampffer. The parties agree to the exclusion of all of the group's employees except for Clampffer, whom the Employer would include.

The Construction and Maintenance group bids work which PECO has decided to contract out and monitors the performance of the contractors. William Clark manages the group, which includes seven Contract Administrators, three Quality Specialist, 11 Quality Control Inspectors, three Paving Inspector/Coordinators and a Material Process Clerk. The parties agree that the Contract Administrators, Quality Specialists, and Quality Control Inspectors should be excluded from the unit. The Petitioner would also exclude the Paving Inspector/Coordinators and Material Process Clerk. The Employer seeks to include these positions.

A second section within the EED Support Services Department which includes disputed positions is Supply Chain Management. This section purchases, stores and distributes the supplies used by other PECO employees. It is divided into three groups, only one of which – Supply Services East – contains disputed classifications. Included within the Supply Services East group are several subgroups including Material Availability, Material and Logistics, and the Electric Shop.

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<sup>3</sup> The parties originally disagreed on the status of certain clerks assigned to this section, but the

The Material Availability subgroup arranges contracts with suppliers. The subgroup consists of five Analysts, four Purchasing Associates and a Material Process Clerk. Petitioner would exclude all of these employees from the unit. The Employer would include only the Material Process Clerk.

The Material and Logistics subgroup maintains the warehouse and storerooms from which supplies are distributed. The parties agree that the 24 Material Coordinators, 12 Equipment Operators, two Helpers and two Drivers who work in the warehouse storerooms should be included in the unit. They disagree over the placement of Material Process Clerk Lola Hankerson. The Employer contends that she should be included in the unit, and the Petitioner contends she should be excluded.

The Electric Shop repairs distribution, generations and substation equipment. The parties agree that the Electric Technicians, Utility Employees and Paint Blasters who perform the repair work should be included in the unit. They disagree over the status of Joe Fragala, a Junior Analyst assigned to the shop, with the Employer seeking his inclusion and Petitioner opposing it.

Environmental Safety and Industrial Hygiene is the last of the EED Support Services sections which includes disputed classifications. The PECO Environmental Management and Field Services group in this section monitors PECO's compliance with environmental regulations. The parties agree on the exclusion of all employees in the group except for three Lab Technicians whom the Employer would include in the unit.

**General Personnel Classifications** PECO employees are classified as either exempt or non-exempt. All of the employees included in the unit in this case, as well as the employees in dispute, are considered non-exempt. The employees classified as non-exempt are, in turn, divided into "craft" and "support" categories, and the employees in each of these categories are

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Employer ultimately revised its position and agreed that the clerks should be excluded.

subject to slightly different pay scales. Except for the Design and Construction Consultant, all of the positions which Petitioner seeks to include in the unit are classified for pay purposes as “craft.” All but two of the disputed positions, Damage Prevention Inspector and Paving Inspector, are classified as “support.”

All non-exempt employees, “craft” or “support,” generally receive the same benefits and are subject to the same personnel policies. However, there are some minor differences in the policies applied to “craft” and “support” employees. Only “support” employees, for instance, are eligible for an annual incentive bonus. On the other hand, only “craft” employees are paid additional compensation when serving in a higher graded position for brief periods and are eligible to receive progression pay increases for achieving satisfactory performance. Similarly, seniority is a factor in filling entry level craft positions and laying off craft employees, but does not play a role in hiring or laying off support employees.

## **II. DISPUTED CLASSIFICATIONS IN THE CUSTOMER AND MARKETING SERVICES DEPARTMENT**

### **A. The Call Center**

#### **1. The Customer Consultants and Small Business Consultants in the Business Operations and Business Account Services groups and the Back Office of the Support Services group**

Petitioner would exclude the 179 Customer Consultants and 19 Small Business Consultants as office clericals. The Employer argues that the Customer Consultants and Small Business Consultants are plant clericals who should be included in the unit.

### **Facts**

The Customer Consultants and Small Business Consultants work in an office on the fourth floor of PECO headquarters in Philadelphia. One hundred fifty-four of the Customer

Consultants are assigned to the Business Operations group and report to Business Operations group Manager Cindy Patterson. Twenty-five of the Customer Consultants work in what is referred to as a “back office” in the Support Services group. The supervisory position to which these “back office” Consultants report is currently vacant. The Small Business Consultants are assigned to the Business Account Services group, which is managed by E. McCrane. Neither Patterson, McCrane nor the incumbent of the unfilled position supervise other employees in the unit sought by Petitioner.

As I noted above, the Call Center handles public inquiries. The Customer Consultants’ primary function is to answer telephone calls from PECO customers and enter information obtained from the callers into the PECO computer system. In most instances, the information is then transmitted to Systems Dispatchers who work at PECO’s Plymouth Meeting Service Center in Plymouth Meeting, Pennsylvania. The Systems Dispatchers are responsible for forwarding the customer inquiries received from the Call Center to Energy Technicians who perform the work required by the inquiries. The Systems Dispatchers and Energy Technicians are part of PECO’s Operations Department. The parties agree that the Technicians should be included in, and the Systems Dispatchers excluded from, the unit.

When a customer reports an emergency, the Customer Consultants are required to call the Systems Dispatchers to make certain the Dispatchers have received the inquiry by computer and are arranging for an Energy Technician to respond. Customer Consultants are also obliged to make follow-up contacts after receiving calls from the police and fire departments in Philadelphia.<sup>4</sup> Energy Technicians occasionally contact the Systems Dispatchers with questions, and the Systems Dispatchers may contact the Customer Consultants to obtain the added information needed by the Energy Technicians.

A similar sequence is followed when Customer Consultants receive follow-up calls from customers seeking information about PECO's response to their earlier inquiries. The Customer Consultants contact the Systems Dispatchers who obtain the necessary information from the Energy Technicians and then relay it to the Customer Consultants. If a Customer Consultant has difficulty reaching a Systems Dispatcher, he or she will contact employees working at a Customer Desk located near the Systems Dispatchers in the Plymouth Meeting Service Building and have Desk employees pass the customer's inquiry on to the Systems Dispatchers. Direct contact between Customer Consultants and Energy Technicians or other field employees is rare.

Customer complaints about the size of their bills are not referred to the Systems Dispatchers. The Customer Consultants assigned to Business Operations make some effort to resolve such complaints and then refer them to a separate group of seven Customer Consultants who report to supervisor Anthony Gioia in the Support Services section of the Call Center.<sup>5</sup>

The Support Services section also includes a group of about 25 Customer Consultants who work in a "back office" responding to customer inquiries received by mail or e-mail. Customer Consultants are not assigned to this group on a permanent basis and rotate through the group for periods of six months. In addition to responding to inquiries received by mail, the Customer Consultants in this group attempt to resolve customer complaints referred to PECO by the Pennsylvania Public Utilities Commission and prepare reports detailing their efforts.

PECO gives small businesses a separate telephone number to call if they have questions or problems. The Small Business Consultants field these calls, performing the same function which the Customer Consultants perform with respect to calls from the general public. The Small Business Consultants also assist businesses in trying to limit their demand for electricity

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<sup>4</sup> Calls from police and fire departments outside Philadelphia are routed to a Customer Desk located at PECO's Plymouth Meeting Service Center.

by using a checklist to pinpoint the source of the demand and suggesting possible ways to reduce it. Like the remainder of the Small Business Consultants' job, this analysis of customer demand is done telephonically.

Customer Consultants are required to take a one-week training course in gas and electric issues and annual three-day refresher courses. An Energy Technician is normally present at these training sessions to answer questions about field operations. PECO recently instituted a practice of sending Customer Consultants to spend a day with an Energy Technician for training purposes. Other than this, the record does not indicate any face-to-face contact between Customer Consultants and Energy Technicians or other field employees.

Customer Consultants that handle telephone calls are required to spend seven hours of their eight-hour shifts on the telephone. The Customer Consultants and Small Business Consultants spend all of their time in the office and wear casual business attire while on the job. They are not issued personal protective equipment.

### **Analysis**

The Board distinguishes between plant and office clericals, including the former in production units while excluding the latter. Office clericals normally work in an office environment and perform functions related to office operations. ***Cook Composites***, 313 NLRB 1105, 1108 (1994). Plant clericals generally spend a significant percentage of their time in production areas or adjacent offices and perform functions directly related to the production process. ***Desert Palace, Inc.***, 337 NLRB No. 170, slip op. at 5 (2002).

The production areas in this case are the Service Centers from which field employees operate and the customer facilities at which they perform work. The Customer Consultants and Small Business Consultants never visit these production areas, but work exclusively in offices at

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<sup>5</sup> The status of these Customer Consultants is also in dispute and will be considered in the next

PECO headquarters. Their contact with employees in other classifications is by computer or telephone, and most of that contact is with Systems Dispatchers who have been excluded from the unit by agreement of the parties. The Customer Consultants have no face-to-face contact with field personnel, are separately supervised and work under conditions different from those under which field personnel operate. Although telephone inquiries which the Customer Consultants handle ultimately become work orders for field employees within the bargaining unit, functional integration of this nature has not prevented the Board from finding that employees who handle customer inquiries such as the Customer Consultants are office clericals. *Harron Communications*, 308 NLRB 62, fn. 1 (1992); *Cablevision Systems Development Co.*, 251 NLRB 1319, 1323-24 (1980); *Continuous Curve Contact Lenses, Inc.*, 236 NLRB 1330, 1331 (1978); *Nuturn Corporation*, 235 NLRB 1139 (1978).<sup>6</sup> I find that the Customer Consultants in the Business Operations group, the Small Business Consultants in the Business Account Services group and the Customer Consultants in the “back office” area of the Support Services group of the Call Center are office clericals who should be excluded from the bargaining unit being sought by Petitioner.

**2. The High Bill Consultants, Customer Consultants and Junior Analyst in the High Bill Area of the Support Services Section**

**Facts**

As noted in the preceding section, customer complaints about the size of their bills are forwarded by the Customer Consultants in the Business Operations section to a group of seven Customer Consultants who work under supervisor Anthony Gioia in the Support Services section of the Call Center. The Employer argues that these Customer Consultants should be included in

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section of the Decision.

<sup>6</sup> In his 1997 Decision, the Acting Regional Director excluded Customer Consultants as office clericals.

the unit along with a Junior Analyst and eight High Bill Consultants who also work under Gioia in the High Bill area. Petitioner opposes the inclusion of these employees.<sup>7</sup>

One of the Customer Consultants in the High Bill area occupies what is referred to as the “field desk.” This position is filled on a rotating basis. The Customer Consultant assigned to the field desk transmits work assignments to the High Bill Consultants. Each High Bill Consultant covers a specific geographic area, and assignments are made to the High Bill Consultants based on the geographic area in which the assignment is located.

If a High Bill Consultant has a question about an assignment, he or she contacts the Customer Consultant assigned to the field desk, and the field desk Customer Consultant will contact the High Bill Consultants if customers call with follow-up questions about jobs the High Bill Consultants performed. The field desk Customer Consultant also does microfiche research for High Bill Consultants and follows up in situations where a High Bill Consultant discovers a “foreign” or non-legitimate tie-in at a customer’s premises. The follow-up involves sending a series of letters to the customer and scheduling any additional on-site visits which may be required.

The field desk Customer Consultant has daily contact with each of the eight High Bill Consultants. Direct contact between High Bill Consultants and the other Customer Consultants in the high bill area is more limited. The Customer Consultants contact a High Bill Consultant if they have a technical question or want the High Bill Consultant to make an unscheduled visit to a customer’s home to check the exterior of the premises. There is no evidence of direct contact between the high bill area Customer Consultants and unit employees other than the High Bill Consultants.

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<sup>7</sup> The High Bill area was created after the 1997 Decision, and that Decision does not deal with the High Bill area employees.

The High Bill Consultants perform on-site visits to customer premises in an effort to resolve billing disputes. They spend about 85 percent of their time in the field. The High Bill Consultant position was created in 1998. Prior to its creation, the work presently done by the High Bill Consultants was performed by Energy Technicians assigned to PECO's Operations Department. Six of the eight individuals presently serving as High Bill Consultants were classified as Energy Technicians before taking the High Bill Consultant job.

High Bill Consultants are assigned PECO-owned vehicles which they take home in the evenings. The vehicles assigned to the High Bill Consultants are identical to the vehicles given to Energy Technicians. The High Bill Consultants sometimes report directly to a customer's premises at the start of their shifts, although they typically visit an office area at either the beginning or end of the shifts to enter data into the PECO computer system and do other paperwork. High Bill Consultants assigned to Philadelphia do their paperwork at a work station in the Call Center office area at PECO headquarters. High Bill Consultants working in the suburbs use work station established for their use in PECO's Phoenix and Warminster Service Buildings. The High Bill Consultants' work station in Warminster is located in the area of the Service Center which is also used by Energy Technicians included in the unit.

When visiting a customer's premises to deal with a bill complaint, High Bill Consultants do an appliance analysis. This involves using a checklist to determine which appliances the customer has, how much power they are likely to use, and whether the power likely used by the appliances corresponds to the amount of power for which the customer is being billed. The High Bill Consultants then unplug all of the appliances and check the customer's meter to see if the customer is being billed for energy not being used. The High Bill Consultants will also attempt to verify the accuracy of the meter by running just one of the customer's appliances and

checking whether the amount registered on the meter is the amount which the appliance might be expected to use.

If none of these tests identifies the problem, the High Bill Consultants may remove the meter and use a kit to test it. The High Bill Consultants remove and test only single phase electric meters. Meter Technicians from the Meter Services group in the Accounts Receivable section of the Customer Services Department are summoned if a polyphase meter must be tested. The parties have agreed that these Meter Technicians should be included in the unit. About half of the time, a High Bill Consultant will be present while the Meter Technician performs the test. However, the High Bill Consultant is present only for customer relations purposes and does not assist with the testing. A High Bill Consultant normally requests a Meter Technician's assistance about once every two or three months.

A High Bill Consultant who encounters a hazardous meter will arrange to have a Revenue Protection Technician from Metering Services summoned to remove the meter. Like the Meter Technicians, the Revenue Protection Technicians are included in the unit by agreement of the parties. The Revenue Protection Technicians will also be called in if a High Bill Consultant believes a customer may be stealing service from PECO. The High Bill Consultants will normally remain at the site until a Revenue Protection Technician arrives to deal with any hazard, but they usually do not assist the Revenue Protection Technicians in dealing with the problem. Each of the High Bill Consultants seeks assistance from a Revenue Protection Technician about three or four times per month.

Two of the High Bill Consultants are trained to remove and install gas meters. When testing of such meters is required, it is done by unit employees in the Meter Services group's shop which is located in Berwyn. The results are communicated to the High Bill Consultants who relay them to the customers.

A High Bill Consultant who is unable to resolve a dispute is required to prepare a written report which is sent to the customer. The reports are audited by Junior Analyst Pamela Alsop. Alsop also prepares monthly performance indicator reports for the high bill work and does weekly work plans and forecasts. She spends all of her time in the same office used by the Customer Consultants assigned to high bill work.

In storm emergencies, High Bill Customer Consultants handle telephone calls from customers with service problems and relay the information they obtain to the Systems Dispatchers in Operations. The High Bill Consultants are assigned to remain near downed wires until a field employee arrives to make repairs. Junior Analyst Alsop has no special duties to perform during storms.

### **Analysis**

I find that the High Bill Consultants share a sufficient community of interest with other unit employees to require their inclusion in the unit sought by Petitioner. Like the technicians included in the unit by agreement of the parties, the High Bill Consultants spend most of their time in the field visiting customer homes and facilities. The meter testing work which they perform, while it may not be as technically demanding as some of the tasks done by other unit employees, requires them to use tools and to test and maintain company equipment. The work was previously performed by classifications which are included in the unit, and six of the eight High Bill Consultants transferred from unit jobs. The High Bill Consultants' duties occasionally require contact with unit employees, and some of the suburban High Bill Consultants report to an area in the Warminster Service Building which is also used by unit employees. The High Bill Consultants are separately supervised from unit employees, but this factor is outweighed by the maintenance type duties they perform and their contacts with other unit employees. See ***Boston***

*Edison Company*, 51 NLRB 118, 126 (1943). I shall therefore include the High Bill Consultants in the unit.

I shall not, however, include the high bill area Customer Consultants and Junior Analyst in the unit. These employees spend all of their time in an office setting far removed from the sites at which unit employees perform their functions. The Customer Consultants have no significant contact with unit employees other than the High Bill Consultants, and their contact with the High Bill Consultants is mostly by telephone and computer. Junior Analyst Alsop has no apparent contact with unit employees and spends her time preparing reports. One of the Customer Consultants in the high bill area is assigned to the field desk on a rotating basis, and this individual relays work assignments to the High Bill Consultants. Thus, the Customer Consultants in the high bill area spend only a fraction of their time at the field desk, and most of their work time is spent handling customer complaints rather than interacting with employees in the field. I therefore find that the High Bill Customer Consultants and Junior Analyst Alsop are office clericals who should be excluded from the unit. *Brown & Root, Inc.*, 314 NLRB 19, 24 (1994) (Airhart); *Harron Communications, supra, Jackel Motors*, 288 NLRB 730, 742 (1988) (Deborah Inama); *Cablevision Systems Development Co., supra; Weyerhaeuser Co.*, 132 NLRB 84, 85 (1961) (Cost Clerk and Production Planning Clerk).

**A. The Accounts Receivable Section**

The disputed positions in this section are assigned to a Meter Services group. Timothy Shannon is the group's Manager. Three supervisors report to Shannon – Harry Sheneman, David Smith and Mark Stock. Sheneman supervises a group of 19 Meter Technicians who are responsible for installing and testing complex meters. Stock supervises 14 Revenue Protection Technicians who investigate situations in which PECO believes services are being stolen. Smith supervises the following classifications: three Meter Technicians who work in a shop area

testing and repairing meters; a fourth Meter Technician who dispatches work to the Technicians assigned to Sheneman; two Engineers and a Metering Design and Construction Consultant who determine the types and locations of meters to be installed; two Meter Services Clerks who support the Meter Technicians; and four Billing Consultants who support the Revenue Protection Technicians. The parties agree that the Meter and Revenue Protection Technicians and Metering Design and Construction Consultant should be included in the unit. They also agree that the Engineers and supervisors should be excluded. Their dispute is over the placement of the Meter Services Clerks and Billing Consultants, with the Employer contending that the employees in these classifications should be in the bargaining unit and Petitioner seeking to exclude them.

### **1. The Meter Services Clerks**

The Meter Services group is headquartered in one of the buildings at PECO's Berwyn facility. Shannon's office is there along with the supervisors who report to him. The Engineers, Metering Design Consultant, Meter Services Clerks and Billing Consultants also work in an office area in Berwyn. The meter repair shop is located in the same building. The Meter Services Clerks spend all of their time in the office area using office equipment. They dress in casual business attire.

The Meter Technicians who work for supervisor Sheneman spend almost no time at the Berwyn facility. The Motor Technicians are assigned company vehicles and report directly to the job sites at which they test and repair meters. A Meter Technician normally visits the Berwyn office about once a week to pick up assignments and drop off notes on completed jobs.

The Meter Technicians receive their assignments from the Meter Technician who is assigned as a dispatcher. In some cases, the dispatcher will ask a Meter Services Clerk to secure information which might be helpful to the Meter Technicians in performing assignments. Such data might include customer contact information and locations, historical information on meter

testing for the customer and pictures of the customer's meter location. The information is obtained from company computer records and files and is given by the Meter Services Clerks to the Meter Technicians during the Meter Technicians' weekly visits to Berwyn. Information may also be communicated by telephone or fax machine. Meter Technicians sometimes contact Meter Service Clerks with questions about the data they have been given or with requests for additional information.

Upon completion of an assignment, a Meter Technician will mail or hand deliver to the Meter Service Clerks information about the work which they have done. The Meter Service Clerks input this information into the PECO computer system. Manager Shannon estimated that each Meter Service Clerk has between five and 10 telephone contacts with Meter Technicians during the course of an average work day.

During storm and weather emergencies, the Meter Technicians are assigned to assist in restoring power to PECO customers, and the Meter Services Clerks function as dispatchers for the Meter Technicians. The storm dispatch work may be performed from either the Berwyn office or other locations. During the first nine months of 2002, the Meter Service Clerks were asked to serve as dispatchers on about 20 occasions.

### **Analysis**

In his 1997 Decision, the then Acting Regional Director considered the status of CEMS Clerks who performed functions similar to those currently performed by the Meter Services Clerks. The Acting Regional Director found the CEMS Clerks to be plant clericals and included them in a production and maintenance unit. I reach the same result in the case of the Meter Services Clerks.

The Meter Services Clerks report to a supervisor who also supervises unit employees. They work in an office area with at least two employees who are part of the unit – the Metering

Design Consultant and the Meter Technician assigned to dispatch duties. The office is in the same building as the meter shop which houses other unit employees, and the Meter Services Clerks have regular telephone contact with those Meter Technicians working outside the Berwyn facility. The duties performed by the Meter Services Clerks are directly related to the work performed by the Meter Technicians. It is true that the Meter Services Clerks have little face-to-face contact with most of the Meter Technicians, but this lack of contact is outweighed by other factors – common supervision, common work areas and interrelated duties – which indicate that the Meter Services Clerks share a community of interest with the Meter Technicians. I find that the Meter Services Clerks are plant clericals who should be included in the bargaining unit. See, *Antioch Rock & Ready Mix*, 327 NLRB 1091, 1095 (1999); *ITT Lighting Fixtures*, 249 NLRB 441, 442 (1980).

## **2. The Billing Consultants**

### **Facts**

Although the Billing Consultants report to supervisor David Smith, their primary function is to support a group of Revenue Protection Technicians who work for supervisor Mark Stock. The Revenue Protection Technicians investigate reports of theft of PECO services and correct hazardous conditions which result from attempts at theft. The Revenue Protection Technicians are assigned company-owned vehicles and report directly to the sites at which they work. They normally visit the Berwyn facility no more than once a week.

The Billing Consultants answer calls made to PECO's "800" telephone number, which is used by members of the public to report possible theft of services. Billing Consultants also respond to contacts from other PECO employees or police and fire personnel regarding possible theft. The Billing Consultants evaluate these contacts and decide whether further investigation by a Revenue Protection Technician is appropriate. If an investigation is appropriate, the Billing

Consultants will notify a Revenue Protection Technician by computer, telephone or during the Revenue Protection Technicians' weekly visits to Berwyn.

The Revenue Protection Technicians contact the Billing Consultants if they have questions about a job. When a Revenue Protection Technician discovers that a customer is not paying for services, he or she asks the customer to open an account with PECO and pay for services previously rendered. The Billing Consultants process the applications for service which result from these contacts, calculate the amounts due for past service, and arrange to have the customer billed. If the customer refuses to pay, the Billing Consultants prepare documents notifying the customer that service will be turned off. The documents are hand-delivered by Revenue Protection Technicians. A contractor is used to actually cut off service if a customer persists in a refusal to pay.

One of the Billing Consultants is assigned to dispatch Revenue Protection Technicians to jobs deemed hazardous. The Billing Consultants rotate through this job. When serving as dispatcher, a Billing Consultant spends 80 to 90 percent of his day in contact with Revenue Protection Technicians. When not serving as dispatcher, the Billing Consultants spend about 35 percent of their time talking to the Revenue Protection Technicians.

Like the Meter Services Clerks, the Billing Consultants spend all of their time in the Berwyn office area. They wear casual business attire and, unlike the Revenue Protection Technicians and Meter Technicians, are not obliged to wear protective clothing.

### **Analysis**

I find the Billing Consultants to be plant clericals. They share supervision with unit employees such as the Metering Design Consultant and Meter Services Clerks, and they work in the same areas as those unit employees. Additionally, they perform duties which are functionally integrated with the functions performed by Revenue Protection Technicians

included in the unit and which require regular contact with the Revenue Protection Technicians. This combination of functional integration, regular contact and common supervision outweighs the fact that the Billing Consultants work in an office environment and have limited face-to-face contact with most unit employees. *John Hansen Co., Inc.*, 293 NLRB 63, 65 (1989) (location in office environment not determinative). I shall therefore include the Billing Consultants in the unit.

### **III. THE DISPUTED CLASSIFICATIONS IN THE OPERATIONS DEPARTMENT**

#### **A. The Customer Response Section**

##### **1. The Customer Information Desk**

#### **Facts**

The Customer Information Desk (the Desk) is part of the Distribution Operations group in the Customer Response Section. Created in 2000 to improve the flow of information concerning power outages and system alerts, the Desk is presently manned by a Systems Dispatcher, two Customer Consultants, two Contractor Liaisons and a Work Process Clerk. Desk employees report directly to Distribution Operations Manager Earl Coffman. The remainder of the Distribution Operations group consists of eight Shift Managers and 47 Systems Dispatchers. The parties agree that the Shift Managers and Dispatchers should be excluded from the unit. The Employer contends that the Customer Consultants, Customer Liaisons and Work Process Clerk working at the Desk should be included. Petitioner would exclude those classifications. These are the only employees in Distribution Operations that are in dispute. The record indicates that Desk employees in all three disputed classifications perform the same duties under the same conditions.

Like the remainder of Distribution Operations, the Desk is located on the second floor of the Employer's Plymouth Meeting Service Building. The Desk is staffed from 6:00 a.m. to 10:00 p.m. on weekdays and from 7:00 a.m. to 3:00 p.m. on weekends. Employees currently rotate through the Desk for periods of one year, but at the time of the hearing, the Employer was in the process of making two of the positions on the Desk permanent. Employees assigned to the Desk work in an office environment and wear casual business attire. They spend all of their time in the Plymouth Meeting Service Building.

The Desk distributes to other PECO employees information about emergencies. Desk employees might, for instance, tell other PECO employees if the level of preparation for a possible emergency had been increased or the amount of power received from other utilities reduced. The Desk also provides customers with information about emergencies. During storms, Desk employees contact customers to see if their power has been restored.

Suburban police and fire departments contact the Desk if they encounter emergency situations, and Desk employees pass information about the calls on to the Systems Dispatchers. When other work is slow, Desk employees assist the Systems Dispatchers in scheduling non-emergency work for field employees and help Call Desk Customer Consultants in responding to customer complaints received via e-mail. Most of the contact between Desk employees and other employees is by computer. Desk employees have almost no contact with the field employees included in the bargaining unit. If such contact takes place, it is by telephone.

### **Analysis**

The record does not indicate which Desk positions the Employer is making permanent or when the switch to permanent status will take place. To the extent that Desk positions are occupied on a permanent basis, however, I find the incumbents in the classifications of Customer Consultant, Contractor Liaison, and Work Process Clerk are office clerical employees who

should be excluded from the unit. Desk employees occupy an office area removed from the sites at which unit employees work. They are separately supervised, use office equipment, and perform office type work such as answering telephones and responding to customer e-mails. None of these duties appear to be directly related to the functions performed by unit employees, and Desk employees have little, if any, contact with employees in the unit. Any employees assigned to the Customer Information Desk on a permanent basis should be excluded from the bargaining unit as office clericals. See, *Cablevision Systems Development Co., supra*; *Harron Communications, supra*.

At the time of the hearing, the Customer Consultants, Contractor Liaisons and Work Process Clerks working the Desk were assigned on a temporary basis. The record does not indicate when these employees were to be reassigned or what positions they were to occupy following reassignment. If the employees are scheduled to return to a unit position within a relatively short period, they might be entitled to vote in an election. See, *Mrs. Baird's Bakeries, Inc.*, 323 NLRB 607 (1997). The record does not indicate, however, when, if ever, existing Desk employees are expected to return to unit positions. I shall, therefore, permit those Customer Consultants, Contractor Liaisons and Work Process Clerks assigned to the Desk on a temporary basis to vote subject to challenge.

## **2. Systems Manager Ed Donegan**

Donegan is presently employed as one of four Systems Managers in the Outage Planning group of the Customer Response section. The Outage Planning group writes clearances to block electric current from flowing to equipment on which work is to be performed and has responsibility for the “configuration and health of the system in terms of the status of electric circuits and gas leaks.” Eight Systems Dispatchers handle the clearances. Four Systems Managers monitor the health of the PECO system. The parties agree that the Systems

Dispatchers and three of the four Systems Managers should be excluded from the unit. The Employer takes the position that Gas System Manager Donegan should be included. Petitioner opposes his inclusion.

Although Donegan is currently serving as a Gas System Manager, he is classified as a Senior Distribution Mechanic, a position included in the bargaining unit. Donegan volunteered for the Systems Manager position and has held the job for about four months. The Employer anticipates he will remain in the job for one or two years. Donegan's predecessor in the Gas Systems Manager position was fellow Distribution Mechanic Chris DiValentino, who held the job for about two years. The record does not indicate DiValentino's current position. Nor does it contain a description of either Donegan's current duties or the Employer's plans for him after he finishes his stint as a Systems Manager.

Absent a clear indication of Donegan's present duties and what he is likely to do after serving as a Systems Manager, I cannot determine his eligibility to vote in an election. Further, although the Employer stated at the hearing that Donegan should be included in the unit, it did not address his status in its brief. I shall permit Donegan to vote subject to challenge.

### **3. The Damage Prevention Inspectors**

Six Damage Prevention Inspectors work in the Dig Safe group of the Customer Response section. The Employer, contrary to the Petitioner, seeks to include these employees in the bargaining unit.

#### **Facts**

The Dig Safe group was formed in 1999 or 2000 and is responsible for making certain that building contractors or other persons doing excavation work within PECO's territory do not damage its underground distribution lines. The group is managed by John Kane. The Damage Prevention Inspectors are supervised by Dana Walton who reports to Kane. Other than these

disputed Damage Prevention Inspectors, none of the employees assigned to Dig Safe are included in the bargaining unit.

Companies or individuals are required to notify the Commonwealth of Pennsylvania if they are performing excavation work in the vicinity of underground utilities. The Commonwealth notifies the utilities, who mark their facilities to prevent damage from the excavation. PECO has contracted out the marking work, and it is the contractor who receives notice of any proposed excavation impacting PECO facilities. PECO has instructed the contractor to inform the Dig Safe group of excavation work which falls into certain categories.

When notified, the Damage Prevention Inspectors respond by visiting the job sites to review safety measures with the excavator. The Damage Prevention Inspectors also audit the marking work at the sites they visit and report any problems to supervisor Walton. The PECO contractor contacts the Damage Prevention Inspectors if it is having difficulty locating underground facilities, and the Damage Prevention Inspectors respond by assisting the contractor in finding the facilities. The Damage Prevention Inspectors prepare written reports of their contacts with excavators which are submitted to Walton.

About 20 percent of the Damage Prevention Inspectors' work involves visiting sites at which PECO employees are doing excavations to review safety measures and make certain that underground equipment has been properly marked. While on these sites, the Damage Prevention Inspectors interact with backhoe operators and other employees included in the bargaining unit. Unit employees contact Damage Prevention Inspectors if they notice excavation work being done without proper markings or if they require assistance in interpreting markings placed by either PECO's contractor or other utilities.

PECO requires the Damage Prevention Inspectors to have at least ten years experience as either gas or electric mechanics, positions included in the unit. The Damage Prevention

Inspectors are assigned company-owned vehicles similar to those assigned to unit employees, and they normally report directly to the job sites at which they perform their functions. Damage Prevention Inspectors rarely visit the Dig Safe office and spend nearly all of their time at job sites in the field. When assisting excavators or PECO employees in locating underground facilities, the Damage Prevention Inspectors use locating equipment identical to that used by bargaining unit employees. The Damage Prevention Inspectors also wear the same protective clothing worn by field employees included in the unit.

One of the functions performed by unit mechanics is to respond to, and deal with, reports of gas odors. If the number of gas odor reports becomes too great, the Damage Prevention Inspectors are assigned to assist in responding. The record does not indicate how often this occurs. In storm emergencies, Damage Prevention Inspectors serve as “screeners,” responding to reports of downed utility lines to make certain PECO facilities are impacted before a PECO crew is dispatched to perform repairs. The frequency with which individual Damage Prevention Inspectors are asked to perform this screening function varies. According to Dig Safe Manager Kane, Damage Prevention Inspectors were asked to perform storm duties as few as six and as many as 25 times in the year preceding the hearing.

### **Analysis**

I find that the Damage Prevention Inspectors share a sufficient community of interest with unit employees to require their inclusion in the bargaining unit sought by Petitioner.<sup>8</sup> In assessing community of interest questions, the Board considers the duties, skills, working conditions, functional integration, common supervision, interchangeability and contact among

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<sup>8</sup> Neither party argues that the Damage Prevention Inspectors are technical employees as that term is defined by the Board.

employees. *The Washington Palm, Inc.*, 314 NLRB 1122, 1127 (1994). The Damage Prevention Inspectors perform their functions on construction sites which they sometimes share with unit employees. To the extent they assist in locating PECO underground facilities, they are performing duties which are identical to the duties performed by unit employees.

The Damage Prevention Inspectors are required to have experience in unit positions and possess skills similar to those of unit employees, and they work under conditions similar to those experienced by unit employees. When dealing with excavation by PECO crews, their work is functionally integrated with the work of the unit. The Damage Prevention Inspectors have significant contact with unit employees and are sometimes asked to help with the gas odor work done by employees in the unit. They are separately supervised and they spend a majority of their work time interacting with non-PECO employees, but I find these factors are outweighed by the factors establishing a community of interest. I shall include the Damage Prevention Inspectors in the bargaining unit. *Boston Edison Company*, 51 NLRB 118, 127 (1943).<sup>9</sup>

**4. The Engineering Assistant and Work Process Clerks in the Operations Planning and Analysis group**

The Customer Response section houses a Field Operations group which includes over 200 Field Technicians the parties agree should be included in the bargaining unit. The Operations Planning and Analysis group provides clerical support for the Technicians in Field Operations. Operations Planning is managed by Susan Palena and includes Project Managers, Work Week Managers and Operations Analysts. Both parties agree that Project Managers, Work Week Managers and Operations Analysts should be excluded from the unit. Operations

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<sup>9</sup> The cases cited by Petitioner in its Brief are distinguishable. The inspectors in both *Atlanta Gas Light Company*, 158 NLRB 311, 312-13 (1966), and *Browne and Buford*, 145 NLRB 765 (1963), dealt almost entirely with outside contractors and had virtually no contact with unit employees.

Planning also includes Engineering Assistant William Nendza and seven Work Process Clerks the Employer seeks to include in the unit. Petitioner would exclude these employees.

The disputed employees spend all of their time in an office located on the second floor of the Plymouth Meeting Service Building. They wear casual business attire, use office equipment and work during the day. The Technicians in Field Operations, in contrast, spend most of their time in the field, wear personal protective gear and are scheduled round-the-clock. The duties performed by Nendza and the various Work Process Clerks vary. I will consider them in turn.

### **Engineering Assistant**

#### **Facts**

**William Nendza.** Nendza's Engineering Assistant position was created in May 2002. He responds to customer complaints about Customer Response section activities. The complaints are forwarded to Nendza by either other departments within PECO or the Commonwealth of Pennsylvania Public Utilities Commission. Nendza reviews computer records to determine how PECO responded in the situations which generated the complaints and directly contacts the supervisors and employees involved if the records do not provide sufficient information. In addition to responding to customer complaints, Nendza reviews computer records showing PECO's response to storm emergencies to make certain they accurately reflect when customers who lost power were put back in service.

The Employer requires the occupant of Nendza's position to have a two-year degree in a technical discipline and field experience working with PECO facilities. Operations Planning Manager Palena testified that the two most important prerequisites for Nendza's job were field experience in maintenance or construction and the communications skills needed to deal with customers.

### **Analysis**

The Employer argues that Nendza is a technical employee who should be placed in the bargaining unit because Petitioner is allegedly seeking to have other technical employees included. The Board defines a technical employee as an individual who does not “meet the strict requirements of the term professional employee as defined in the Act but whose work is of a technical nature involving the use of independent judgment and requiring the exercise of specialized training usually acquired in technical schools or through special courses.” *New Orleans Public Service*, 215 NLRB 834, 836 (1974). Technical employees are normally excluded from service and maintenance units; *Barnett Memorial Hospital Center*, 217 NLRB 775, 776 (1975), but may be included if they share a community of interest with non-technical employees. *Sheffield Corporation*, 134 NLRB 1101, 1103-04 (1961). Where a union seeks to include some technical employees, the unit should encompass all technical employees who share a community of interest with the included technicals and who carry out functionally-related duties. *PECO Energy Company*, *supra* 332 NLRB at 1084-1085.

Petitioner concedes that Design and Construction Consultants working in the Contractor and Builder Services groups of PECO’s three Regions are technical employees, and it is willing to include these employees in the bargaining unit on the basis of their community of interest with non-technical employees. Because Petitioner is willing to include the Design and Construction Consultants, the Employer contends it must also include Nendza and all other technical employees. In Nendza’s case, I reject this argument for two reasons.

First, I find the evidence insufficient to demonstrate that Nendza qualifies as a technical employee. While Operations Planning Manager Susan Palena asserted that Nendza exercised independent judgment in his investigation of customer complaints, she did not explain how such judgment came into play. Also, the record does not contain evidence establishing that Nendza’s

job involves work of a technical nature. Nendza may need some understanding of PECO operations, but his actual job functions are either clerical in nature or involve customer relations.

Second, even assuming Nendza is a technical employee, I find he does not share a community of interest with unit employees sufficient to require his inclusion in the bargaining unit over Petitioner's objections. *Lundy Packaging Company*, 314 NLRB 1042, 1043 (1994). Nendza works in an office remote from the sites at which unit employees perform their functions, doing office work using office equipment. To the extent he has contacts outside his office, they are principally with customers. His exchanges with unit employees are limited and appear to occur mostly by telephone. There is no evidence that Nendza interchanges duties with employees in the unit.<sup>10</sup>

Although Petitioner is willing to include the Design and Construction Consultants in the unit, this does not compel a different result concerning Nendza's inclusion. The Design and Construction Consultants work in a different part of the PECO organization and perform functions unrelated to those performed by Nendza. The record contains no evidence of contact between Nendza and the Design and Construction Consultants. Thus, Nendza does not carry out duties which are functionally related to those carried out by the Design and Construction Consultants and does not share a community of interest with them. I shall exclude Nendza from the unit.<sup>11</sup>

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<sup>10</sup> The absence of a community of interest would also warrant Nendza's exclusion from the unit if he is viewed as a non-technical employee.

<sup>11</sup> The Employer's brief notes that in his 1997 Decision, the then Acting Regional Director included in the bargaining unit an employee named Kevin Sasha who was classified as a Technical Assistant. One of Sasha's duties was to respond to customer complaints forwarded by the Public Utility Commission. However, Sasha also assisted in scheduling work for unit employees, had daily contact with such employees and sometimes accompanied them into the field. His job clearly differed from that performed by Nendza, and his inclusion in the 1997 bargaining unit does not compel Nendza's inclusion here. In any case, Petitioner sought review of the decision to include Sasha, and the Board ordered that he vote

## **Work Process Clerks**

### **Colleen Barnes**

Barnes has two primary functions. The first of these functions involves the computerized records which the Employer maintains regarding leaks in its gas distribution system. Field employees who respond to reports of leaks prepare reports regarding their activities, which are forwarded to Barnes, who inputs the information into the computer.

Barnes's second function is to process claims by PECO for reimbursement from outsiders who damage PECO facilities. PECO maintains a Claims department which is primarily responsible for handling attempts to secure reimbursement. Upon request from employees in the Claims department, Barnes obtains information concerning claims originating in the Customer Response section. She also forwards reports from Customer Response section employees of incidents which might result in claims.

Both of Barnes' functions cause her to have some contact with field employees included in the unit. She contacts employees through their supervisors if she has questions about their gas leak reports or needs information concerning a claim for reimbursement. Most of Barnes' contact with field employees is by telephone. Operations Planning Manager Palena estimated that Barnes has direct contact with a non-supervisory field employee at least one time per week.

Barnes works in an office separate from the areas where field employees perform their functions. She wears casual business attire, uses office equipment and is supervised separately from field employees. While Barnes does have limited contact with field employees concerning

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under challenge. Since challenges were not determinative, his status was never finally resolved. The 1997 Decision thus does not require that I place Nendza in the unit in this case.

the data she inputs, the contact is mostly by telephone. The Board has in other cases found employees whose principal function is to input data into a computerized record keeping system to be office clericals even though they have some contact with production employees in order to resolve questions about the data. See, *Mitchellace, Inc.*, 314 NLRB 536 (1994); *Power, Inc.*, 311 NLRB 599, 608 (1993); *Jackal Motors*, 288 NLRB 730, 742 (1988). Similarly, I find Barnes' limited contacts with unit employees are not sufficient to transform her into a plant clerical. I shall exclude her from the unit.

**Josie Nardizzi.** Work Process Clerk Nardizzi receives timesheets indicating the number of hours worked by several groups of field employees within the Customer Response section and inputs the data into the Employer's computerized payroll system. The timesheets are normally submitted by computer or facsimile transmission. Employees often contact Nardizzi and the other Work Process Clerks who do payroll with pay questions. The Employer has a bi-weekly payroll system and such contacts typically take place every other week. Some of the contacts may be face-to-face encounters which take place during field employee visits to the Plymouth Meeting Service Building where Nardizzi and other Work Process Clerks work. Operations Planning Manager Palena estimated that Nardizzi spends between 40 and 50 percent of her time working with payroll.

In addition to doing payroll, Nardizzi helps foremen schedule work for certain groups of field employees within the Customer Response section. Palena estimated that Nardizzi spends about 10 to 20 percent of her time performing this function. Although Palena did not know precisely what Nardizzi did with respect to scheduling, she indicated that it involved daily telephone contact with unit employees.

Nardizzi also receives customer requests for non-emergency work forwarded by computer from the Employer's Call Center. She determines which segment of the Employer's

organization should handle the requests and then sends them by computer to the individuals who schedule work for that segment. When the work has been completed, the employees who did the job transmit reports regarding the work by computer, and Nardizzi and other Work Process Clerks make computer entries to indicate that the work has been performed. The Work Process Clerks sometimes contact unit employees to secure additional information needed to complete the computer entries.

Like Barnes, Nardizzi works in an office setting, uses office equipment and spends most of her time inputting information into PECO's computerized record-keeping system. Nardizzi has more contact with unit employees than Barnes, but the nature of the contacts – telephone inquiries when questions arise about information submitted by the employees – is largely the same. Nardizzi inputs payroll data as opposed to the gas leak information handled by Barnes, but the Board has found payroll clerks to be office clericals. *Cook Composites*, 313 NLRB 1105, 1108 (1994); *Power, Inc., supra*; *Weyerhaeuser Co.*, 132 NLRB 84, 85 (1961)(payroll clerk). I therefore find Nardizzi to be an office clerical, and I shall exclude her from the unit.

**Linda Stewart, Marian Sheppard, Lonnie Davis, Mary Anne Dowdle and Dan Manguel.** These five Work Process Clerks all process payroll information for groups of employees in the Customer Response section, following the same procedures described above in the case of Nardizzi. Like Nardizzi, these Work Process Clerks field pay questions from unit employees on a bi-weekly basis with some unit employees visiting the Work Process Clerks' office to ask the questions in person.

All of the Work Process Clerks except Davis forward requests for non-emergency work to the appropriate segment of the PECO organization and input data indicating that the work has been performed, using the same procedure as outlined by Nardizzi. In the course of performing

these functions, the Work Process Clerks have daily telephone contact with unit employees to clear up questions about the reports the unit employees submit regarding their work.

Each of the Work Process Clerks performs clerical functions in addition to inputting payroll data and processing non-emergency work requests. Linda Stewart prepares information used by supervisors in conducting safety meetings for unit employees and orders work clothing and office supplies for the Customer Response section. She fills in when Nardizzi is absent, helping foremen with scheduling work. Marian Sheppard types procedures. Lonnie Davis compares new maps or blueprints of PECO facilities received by Customer Response to old maps or blueprints and notes on the new maps and blueprints any missing features from the old maps and blueprints. Mary Anne Dowdle inputs gas leak data when Colleen Barnes is absent. Don Mangual inputs data used in preparing internal reports regarding Customer Response section performance and assists in the preparation of the reports.

The term “office clerical” generally refers to employees who perform clerical functions in offices removed from the areas in which production or service employees work and who are subject to supervision separate from that received by the production or service employees. The Board typically finds that such office employees do not share a community of interest with production or service employees sufficient to require their inclusion in the same unit over the objections of a petitioning union. *Mosler Safe Company*, 188 NLRB 650 (1971). The fact that clericals have some contact with production employees in the course of performing their duties or that they process payroll or production information does not necessarily require that they be included in the same unit with the production employees. *Cooper Hand Tools*, 328 NLRB 145, 184 (1999); *Cook Composites, supra.*; *Mitchellace, Inc., supra.*; *Jackal Motors, supra.*

The Operations Planning Work Process Clerks perform clerical functions using office equipment. They work in an office removed from the locations at which unit employees perform

their functions. They are supervised separately from unit employees, and there is no evidence they interchange duties. I find that the Work Process Clerks are office clericals, and I shall exclude them from the unit.<sup>12</sup>

**B. The Engineering Services Section**

**1. The Work Process Clerks in the Distribution Engineering, Customer Engineering and Gas Engineering groups**

The Engineering Services section handles engineering issues which impact the entire PECO organization. The section is divided into six groups. One of these groups, Corrosion Control, is responsible for making certain PECO's gas distribution system does not corrode. The parties agree that 12 Corrosion Control Mechanics assigned to this section should be included in the unit. A second group, Mapping and Document Services, maintains maps and blueprints used by other PECO employees. There are a number of disputed positions in this group which will be considered in the next segment of this Decision.

Three of the remaining Engineering Services groups – Distribution Engineering, Gas Engineering, and Systems Planning/Customer Engineering – each employs a single Work Process Clerk. The Employer would include these three Work Process Clerks in the unit. Petitioner would exclude them. The remaining employees in these three groups are supervisors, engineers and analysts the parties have agreed to exclude from the unit.

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<sup>12</sup> A portion of the 1997 Decision dealt with employees classified as Emergency Service Clerks who performed some of the duties of the Operations Planning Work Process Clerks. The Emergency Service Clerks were permitted to vote subject to challenge. Their status was never resolved post-election.

### **Facts**

All Engineering Services employees work on the first floor of the Employer's Plymouth Meeting Services Building, with the exception of the Corrosion Control Mechanics and the employees assigned to the Mapping Services group. Mapping Services is located in the building's basement. The Engineering Services area is an office environment. Like most other Engineering Services employees, the Work Process Clerks wear casual business attire and work during the day.

Bob Marland is the Work Process Clerk assigned to the Distribution Engineering group. At the time of the hearing, Marland was on special assignment with an automated meter reading project, and his normal duties were being performed by the Work Process Clerks working in the Gas Engineering and Customer Engineering groups. Under normal circumstances, Marland's duties include maintaining payroll records for other Distribution Engineering employees, purchasing supplies, and doing copying and other general clerical work for the group. Marland also types and distributes engineering bulletins prepared by the engineers assigned to the Distribution Engineering group. The bulletins describe new equipment or problems with existing equipment and are issued three to five times per week to supervisors and managers throughout the PECO organization.

Customer Engineering Work Process Clerk Karen Pierson and Gas Engineering Work Process Clerk Jan Tolmi also keep payroll records, purchase supplies and perform general clerical functions for the employees in their groups. In addition, Pierson is involved in responding to requests from PECO's Real Estate Department for information about the possible impact of a sale of property on company operations. When a sale or lease is contemplated, notice is given to Engineering Services, which solicits comments from various segments of the PECO organization about the possible impact. The comments are submitted to the Customer

Engineering group where they are gathered by Pierson, who prepares a letter to the Real Estate department summarizing the comments.

All of the Work Process Clerks are being trained to do some simple drafting work so they can assist the Mapping and Document Services group, but Tolmi is the only Work Process Clerk currently performing such work. In addition to her normal clerical duties, Tolmi spends about 20 percent of her time doing simple drafting involving gas facility records. All three of the Engineering Services Work Process Clerks spend all of their time in the office and they have little, if any, contact with unit employees working in the field.

### **Analysis**

I find that the Work Process Clerks in Engineering Services are office clerical employees who should be excluded from the bargaining unit. The Work Process Clerks work in an office environment performing clerical functions such as typing and copying. They are supervised separately from unit employees and interact principally with engineers and other classifications excluded from the bargaining unit. As a consequence, there is minimal contact between the work process clerks and unit employees. Gas Engineering Work Process Clerk Tolmi assists Mapping Services employees who are arguably within the bargaining unit, but there is no other evidence that Work Process Clerks interchange with unit employees and Tolmi spends just a fraction of her time doing arguably unit work. I find this limited evidence of interchange is outweighed by the other factors indicating minimal contact between the Work Process Clerks and unit employees. I shall exclude the Engineering Services Work Process Clerks from the unit. *Cablevision Systems Development Co., supra* at 1324.<sup>13</sup>

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<sup>13</sup> Since clerical functions were reorganized in 1998, the 1997 Decision provides no assistance in determining the status of the Engineering Clerks.

## **2. The Mapping and Document Services group**

Non-supervisory employees in the Mapping and Document Services group fit into three classifications – Drafter, Equipment Update Clerk, and Records Clerk. The Employer seeks to include employees in all three classifications in the bargaining unit. Petitioner would exclude them.

### **Facts**

As noted above, the Mapping and Document Services group is located in the basement of the Plymouth Services Building. Employees assigned to the group work day shift hours, spend most of their time in an office area and wear casual business clothes except when they work in the field. The group's primary function is to update and maintain the blueprints, maps and manuals used by other PECO employees.

The Drafters' principal job is to alter the maps and blueprints to reflect changes resulting from maintenance or new construction performed by either customers or PECO field crews. They make alterations using a computer-assisted drafting program known as CAD. Field employees do sketches which show changes to the PECO system resulting from their work. The sketches are sent to the Mapping group by Work Process Clerks in PECO's Regions.

The documents received from the Regions are screened by Drafters and Equipment Update Clerks who make certain all of the required information has been submitted. The Drafters and Equipment Update Clerks contact the appropriate supervisors in the Regions if necessary data has been omitted. Assuming all necessary information has been provided, the documents are forwarded to Drafters who make the required revisions to maps and prints and then return the revised prints to the Equipment Update Clerks. The Equipment Update Clerks alter computer records showing the location of all PECO gas and electric distribution systems to reflect the revisions and then file the revised maps and prints. Copies of the maps and prints are

given to Records Clerks who are responsible for distributing them to the appropriate individuals within the organization.

In some cases, Mapping and Document Services Drafters are asked before work begins to create a preliminary print of what a completed job will look like. Such prints are used to write clearance orders blocking or switching power so the work can be done. The Drafters obtain the information needed to perform this function from Designers or Design and Construction Consultants who work in the Regions. They may be asked to attend pre-job conferences in some cases to inform field employees what they are looking for in the sketches which will be submitted after work is finished. Field crews sometimes ask Drafters to come to job sites to help locate underground facilities.

In addition to performing the functions described above, one of the Equipment Update Clerks maintains payroll records for the Mapping and Document Services group. Other Equipment Update Clerks order office supplies for the group.

The Records Clerks also have duties in addition to the distribution of revised maps and prints. The Mapping and Document Services group maintains copies of Safety, Procedures, Construction Standards, and other manuals. The Records Clerks distribute copies of these manuals when they are prepared or revised and respond to requests from field personnel for additional copies of existing manuals. Nearly all of the Records Clerks have been trained to use CAD, and they assist the Equipment Update Clerks in updating PECO's computer system to reflect new or changed equipment.

All of the Mapping and Document Services employees – Drafters, Equipment Update Clerks and Records Clerks – serve as screeners during storms, remaining near downed wires until PECO crews arrive to make repairs. The Equipment Update Clerks spend between 10 and 20 percent of their time performing this function. The rest of their work time is spent in the

office. The Drafters spend between 10 and 20 percent of their time as screeners and an additional 5 percent in the field attending meetings and assisting field crews. The remainder of their time is also spent on the office. When working in the field, the Mapping Services employees are obliged to wear protective equipment.

The Drafters exercise independent judgment in performing technical work requiring some training. Both parties agree that they are technical employees as that term is defined by the Board. In his 1997 Decision, the then Acting Regional Director included employees performing functions similar to those performed by the Mapping Services Drafters because he found their work was integrated with the work of Designers who were also included in the unit.

Petitioner has agreed that Regional Design and Construction Consultants should be included in the units, and I will find later in this Decision that Regional Designers should also be included. The Mapping and Document Services Drafters were included in the unit in the 1997 Decision because their work was functionally integrated with that of the Designers. To some extent, the work of the Drafters continues to be functionally integrated with the Designers' work. However, the Drafters are assigned to a different portion of the PECO organization, have separate supervision, spend the vast majority of their time in an office setting removed from the locations at which the Regional Designers work and do not appear to have significant contact with the Designers. On this basis, I shall exclude them from the unit. *Maryland Cup Corporation*, 171 NLRB 367, 369 (1968); *Container Research Corp.*, 188 NLRB 586, 588 (1971); *J.P. Stevens & Company, Inc.*, 123 NLRB 758, 760-61 (1959); *Capitol Temptol Corp.*, 243 NLRB 575, 585-86 (1979); *Century Electric Company*, 146 NLRB 232, 238-39 (1964). Similarly, I find the Equipment Update Clerks and Records Clerks are office clericals who

should also be excluded from the unit. The Equipment Update Clerks work in the same area as the Drafters and share common supervision.<sup>14</sup>

**C. The Transmission and Substations Section**

**1. The Maintenance Assistant in The Maintenance group**

The Transmission and Substations section is responsible for maintaining and repairing both the high voltage overhead transmission lines, which carry power from generating facilities, and the substations at which the voltage is reduced so the power can be distributed to customers. The section is based in a separate building at PECO's Berwyn facility. The Maintenance group includes the field employees who do the hands-on work of repairing and maintaining the transmission lines and substations. In this group, 13 Line Mechanics work on the overhead transmission lines, 60 Maintenance Technicians are responsible for the substation work, and six Engineering Technicians do testing on the transmission and substation equipment. All of these employees are included in the bargaining unit by agreement of the parties.

The Maintenance Technicians and Line Mechanics report to supervisors who report in turn to the Manager of the Maintenance section. The Maintenance Technicians and Line Mechanics spend virtually all of their work time in the field. The Line Mechanics report at the start and end of their shifts to the Transmission and Substation building in Berwyn. The Maintenance Technicians and Engineering Technicians report to PECO's Plymouth and Baldwin Service Centers and to a Service Center located on Christian Street in Philadelphia. All of the Transmission and Substation field employees work day shift.

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<sup>14</sup> Employees who performed functions similar to those currently performed by the Update Clerks and the Records Clerks voted subject to challenge in 1997.

In addition to the Line Mechanics and Maintenance Technicians and Engineering Technicians, the Maintenance group includes Maintenance Assistant Nadeen Abdul-Ahad. The Employer seeks to include Abdul-Ahad in the unit, while Petitioner would exclude him.

**Facts**

Abdul-Ahad's primary responsibility is environmental coordination. Mechanics visiting substations report any signs of oil leakage. The reports are forwarded to Abdul-Ahad, who visits the site to determine the cause of the leak and, if possible, make necessary repairs. Abdul-Ahad often contacts the employee reporting the leak before visiting a site to obtain information about the leak and may ask the employee to meet him at the site. If the leak is minor, Abdul-Ahad cleans it up himself. The clean-up of major leaks is sub-contracted with Abdul-Ahad assuming responsibility for monitoring the performance of the contractor.

Abdul-Ahad is summoned immediately if a leak is viewed as an emergency and is responsible for blocking power to the impacted facility so that repairs can be made. As is the case in non-emergency situations, Abdul-Ahad attempts to halt the leakage, does minor clean-up himself and summons the contractor if a major clean-up is involved. Maintenance Technicians responding to the emergency may assist Abdul-Ahad in cleaning up minor oil spills.

Abdul-Ahad maintains records of equipment containing oil contaminated with PCBs and keeps track of when field employees are scheduled to work on such equipment so that he can ask them to remove the contaminated material. He may also ask field employees to take oil samples for testing. Abdul-Ahad is responsible for maintaining the records showing how the Transmission and Substations section disposed of any contaminated equipment. He also serves as the training coordinator for the Transmission and Substations section, making certain employees have taken any mandated classes.

Abdul-Ahad has an office in the Berwyn facility occupied by Transmission and Substation section employees, but spends no more than 10 percent of his time there. Seventy percent of Abdul-Ahad's time is spent in the field, and at least half of his field work involves direct contact with Transmission and Substation Technicians and Mechanics. The remainder of Abdul-Ahad's work time is spent doing paperwork at the Service Centers in Plymouth Meeting, Baldwin, and Philadelphia where Transmission and Substation employees report. Like the unit Line Mechanics and Maintenance Technicians and Engineering Technicians, Abdul-Ahad works day shift and wears protective clothing in the field. He reports directly to the Maintenance Manager.

### **Analysis**

The Employer argues that Abdul-Ahad is a technical employee who should be included in the unit due to his close community of interest with the Transmission and Substations Mechanics and Technicians.<sup>15</sup> Abdul-Ahad spends most of his time in the field. His functions are integrated with the functions performed by the Transmission and Substations employees included in the unit, and he is frequently in contact with those employees. He reports to the same supervisors as unit employees, works the same hours, frequents the same job sites and wears the same sort of protective clothing. I therefore find Abdul-Ahad shares a community of interest with unit employees sufficient to require that they be placed in the same unit.

## **2. Designers and Drafters in the Engineering and Design group**

The parties agree that the employees in these classifications are technical employees, but

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<sup>15</sup> I find it unnecessary to pass on the claim that Abdul-Ahad qualifies as a technical employee since I would place him in the bargaining unit regardless of whether he enjoys such status.

the Employer seeks to include these employees in the unit, while the Petitioner would exclude them.

### **Facts**

Transmission and Substation Designers are required to have an Associates Degree in Engineering and extensive experience in drafting and design work. They design and engineer modifications to substation equipment and overhead transmission lines. Requests for modifications come from a variety of sources, including the Transmission and Substation Technicians who are responsible for maintaining the substations and who are included in the bargaining unit.

Transmission and Substation Designers typically visit a substation or transmission facility before finishing a design to make certain the actual layout of the facility conforms to the layout indicated on blueprints. Supervisors and Maintenance Technicians are normally present during these visits in case Transmission and Substation Designers need additional information or wish to consult about the layout of the substation. Transmission and Substation Designers will also visit the site during construction to monitor progress and answer questions. The actual design work is performed in an office area at the Transmission and Substations building in Berwyn using a computer assisted drafting (CAD) program. Transmission and Substation Designers spend 60 to 70 percent of their time in the Berwyn office and the remainder in the field.

Transmission and Substation Drafters update maps and prints to reflect changes in the transmission lines and substations maintained by Transmission and Substation Technicians and Mechanics. They also assist the Transmission and Substation Designers by gathering prints at the start of a project and performing simple design work. Transmission and Substation Drafters often accompany Transmission and Substation Designers into the field for training purposes and

to provide assistance. They spend about 30 percent of their time on field visits and the remainder in the Berwyn office.

Like the other Transmission and Substation employees, the Designers and Drafters work on day shift. They are required to wear protective clothing when going into the field.

### **Analysis**

Employees who performed functions similar to those performed by the Transmission and Substation Drafters and Designers were included in the bargaining unit by both the Board and the then Acting Regional Director in their respective 1997 Decisions. See, *PECO Energy Company, supra*, 322 NLRB at 1086-1087. Based on those Decisions, I find that the Transmission and Substations Drafters and Designers in this case must be included in the unit being sought by Petitioner. The Drafters and Designers perform functions which are integrated with the jobs done by Transmission and Substations Technicians and Mechanics, have significant contact with the Technicians and Mechanics, work similar hours and wear the same type of protective clothing when in the field. These factors are sufficient in my view to establish a community of interest sufficient to require the inclusion of the Drafters and Designers in the same unit with the Technicians and Mechanics.

### **3. The Work Process Clerks and Junior Analyst in the Work Management group**

The Work Management group is located in an office area in the Transmission and Substation building in Berwyn. It shares the area with the Engineering and Design and Relay Services groups, the managers of the Maintenance group and the Director of the Transmission and Substation section. Line Mechanics responsible for maintaining PECO's overhead transmission lines report to the Transmission and Substation building for brief periods at the beginning and end of their shifts. The Line Mechanics are included in the bargaining unit by

agreement of the parties, and I concluded in the preceding section of this Decision that Designers and Drafters in the Engineering and Design group should be included.

The Work Management group schedules work for the rest of the Transmission and Substation section. John Sweriduk manages the group which includes a Work Coordinator, four Work Week Managers and six Work Process Clerks. One of the Work Week Managers – Marty Grotzsch – is classified as a Junior Analyst. The Employer seeks to include Grotzsch and the six Work Process Clerks in the unit. The parties agree that the remaining Work Management employees should be excluded.

### **Facts**

**The Work Process Clerks.** The Work Process Clerks provide clerical support for the Transmission and Substations section. As noted above, they are located in an office at the Transmission and Substation building in Berwyn. Four of the Work Process Clerks sit with the other Work Management employees. Due to a lack of space, two of the Work Process Clerks sit in the portion of the office occupied by the Master Technicians and Engineering Technicians in the Relay and Protection Services group. The Engineering Technicians are included in the unit by agreement of the parties. The only other group of unit employees occupying space in the Transmission and Substations area are the Drafters and Designers in the Engineering and Design group. Unit Line Mechanics visit the Transmission and Substations building for brief periods at the beginning and end of their shifts. The other employees who frequent the building are outside the unit.

Four of the Work Process Clerks – Mary Ellen Coons, Paul Kelly, Karen Lynch and John Mociak – enter payroll data and perform typing, filing and other routine clerical tasks for specified groups of employees within the Transmission and Substations section. Coons handles payroll and does clerical work for the Engineering and Design group. Kelly services a group of

unit Maintenance and Engineering Technicians who work from the Employer's Christian Street Service Center in Philadelphia. Lynch works for one group of Technicians who report to the Employer's Plymouth Meeting Service Center and a separate group who report to the Baldwin Service Center. Mociak does payroll and clerical work for the Relay and Protection Services group and the Line Mechanics based in Berwyn.

Employees speak to the Work Process Clerks if they have questions about their pay. Most inquiries are by telephone. Kelly spends part of one day each week at the Christian Street Service Center performing filing and other clerical tasks for the group of Technicians he supports. Lynch visits the Plymouth Meeting and Baldwin Service Centers once a month for the same purpose. Unit employees are normally not present when Kelly and Lynch visit these facilities.

Each of the Work Process Clerks mentioned above performs duties in addition to payroll and basic clerical support. Kelly spends one day per week at a PECO facility in West Conshohocken, Pennsylvania, doing data processing for a predictive maintenance team which inspects substations. The team members are usually out doing inspections while Kelly is in West Conshohocken. Coons enters data into an equipment database. The data is contained on forms sent to Coons by either field employees, supervisors, or Transmission and Substation Drafters. She occasionally contacts the authors of the forms if she has questions. Coons also files revisions to drawings of PECO equipment. Lynch gathers information for a two person data analysis team which recommends maintenance work and assists the team with copying and filing. Mociak acts as the backup for the other Transmission and Substations Clerks.

Two Work Process Clerks – Kathleen Mince and Lori Murzinski – do not perform payroll functions. The Work Management group receives about 100 work requests from other parts of the PECO organization each week. The requests are contained on written forms

normally sent by facsimile transmission. Murzinski enters the information from the request forms into PECO's computer system. She also obtains information from non-unit engineers in the Transmission and Substations section's Relay and Protection Services group and enters it into a computerized relay data base.

A work control group within Work Management conducts a daily morning meeting to review pending work requests, determines whether additional information is necessary before the requests can be addressed, and directs the requests to the segment of the PECO organization which can best perform the work involved. Mince sits in on the meetings, takes notes and uses the notes to create work requests in the PECO computer system. These computerized work requests indicate the nature of the work and the time frame in which it is expected to be completed. They are forwarded via computer to the segment of the organization designated to do the job. At the end of each work day, Mince obtains a list of jobs which have not been completed and copies of any new work requests which have arrived in Transmission and Substations during the day so that this information will be available when the work control group meets the following morning.

In addition to performing clerical tasks for the Work Control group, Mince visits substations to make certain necessary blueprints are on file. If prints are missing or revised prints become available, she obtains copies from Transmission and Substations Drafters and files them. Mince spends about 20 percent of her time visiting substations and the remainder in the Berwyn office.

### **Analysis**

The Transmission and Substations Work Process Clerks have some attributes of plant clericals. They work in the same area as Drafters, Designers and Equipment Technicians included in the unit and have some contact with unit employees in the course of performing their

work functions. However, I find these factors are outweighed by other factors indicating the Work Process Clerks should be viewed as office clericals. The bulk of the Work Process Clerks' work involves data entry, a task traditionally associated with office clericals. See, *Cooper Hand Tools, supra*; *Cook Composites, supra*. They work primarily in an office setting utilizing clerical skills different from the skills used by most unit employees, and they are supervised separately from unit employees. Their work contacts with unit members are mostly by telephone, and their location in the same office area with some unit employees is coincidental and unrelated to any functional integration of their work with the work of the unit. I find that the Transmission and Substations Work Process Clerks are office clericals. I shall exclude them from the bargaining unit.

**Junior Analyst Marty Gotsch.** Although classified as a Junior Analyst, Gotsch has been functioning for the past three years as a Work Week Manager, a position excluded from the unit by agreement of the parties. He will continue to serve as a Work Week Manager through the end of 2003. Work Week Managers schedule the work for the Line Mechanics and Maintenance Technicians working in the Transmission and Substation section.

Gotsch will presumably return to his Junior Analyst position after his stint as a Work Week Manager concludes. The record does not indicate the duties associated with the Junior Analyst position. Whatever those duties are, they are currently being performed by other PECO employees.

At the hearing, the Employer took the position that Gotsch should be allowed to vote in any election because he will be returning to a unit position as a Junior Analyst in the near future. Its brief reiterates this position while also seeming to suggest that Gotsch's duties as a Work Week Manager give him a community of interest with unit employees sufficient to require his inclusion in the same unit. Since the parties agreed to exclude the other Work Week Managers

in the Transmission and Substations section, I find it would be inappropriate to include Grotsch based on the duties he performs in that position. He might be eligible to vote based on his probable return to the Junior Analyst job, but only if the Junior Analyst position is included in the unit. *Mrs. Baird's Bakery, Inc., supra.* Absent evidence of the Junior Analyst's duties and responsibilities, however, I can not determine whether the job should be included. I shall permit Gotsch to vote subject to challenge.

**D. The BucksMont, DelChester and Philadelphia Regions**

**1. The Contractor and Builder Services groups – Contractor Liaisons**

Day-to-day operations at PECO are divided among three Regions, each of which services a portion of PECO's geographic territory. The Philadelphia Region deals with Philadelphia and is headquartered at the Christian Street Service Building. The DelChester Region handles Delaware and Chester Counties. It is based in the Coatesville Service Building with some office personnel located in the Baldwin Service Building. The BucksMont Region is responsible for Bucks and Montgomery Counties and has its headquarters at the Warminster Service Building.

Each of the PECO Regions houses four groups – Contractor and Builder Services, Regional Engineering and Design, Work Management and Maintenance. The Contractor and Builder Services groups handle requests for new gas or electric service, primarily from building contractors. The Builder Services groups consist of a manager, Design and Construction Consultants, and Contractor Liaisons. The parties agree that the Managers should be excluded from the unit and the Design and Construction Consultants included as technical employees who share a community of interest with unit employees. They disagree over the placement of the Contractor Liaisons, with the Employer contending that they are technical employees who perform functions closely related to the jobs done by the Design and Construction Consultants and Petitioner arguing that they are office clericals.

### **Facts**

Jeanmarie Lee is the Manager of Contractor and Builder Services in the BucksMont Region. Eleven Design Consultants and seven Contractor Liaisons report to Lee. Lee, the Contractor Liaisons, and seven of the Design Consultants have desks in Warminster, with the Contractor Liaisons and the Design Consultants sharing the same office space. The four remaining Design Consultants work from other PECO facilities within the BucksMont territory.

The Manager of Contractor and Builder Services in the DelChester Region is Kate Donofrio. She also supervises eleven Design Consultants and seven Contractor Liaisons. Donofrio, the Contractor Liaisons and six of the Design Consultants are located in Coatesville, where the Contractor Liaisons and Design Consultants occupy adjacent office areas. Four Design Consultants work from the Baldwin Service Building and one works from a Service Building located in Phoenixville, Pennsylvania.

Joel Murphy manages the Contractor and Builder Services group in Philadelphia. Eight Design Consultants and seven Contractor Liaisons report to Murphy. The Design Consultants and Contractor Liaisons share an office area on the second floor of the Christian Street Service Building.

The process of providing new or enhanced service begins with the completion of a form known as a service and meter application. Customers sometimes forward service and meter applications to PECO. Such applications are sent to the appropriate Customer and Builder Services group where they are reviewed by a Contractor Liaison who makes certain they have been filled out completely. Contractors seeking enhanced service often neglect to complete the forms, and the Contractor Liaisons fill out the forms themselves based on information they obtain in telephone contacts with the contractors.

Once the service application is complete, the Contractor Liaisons evaluate the job for level of complexity. Simple jobs are scheduled by the Contractor Liaisons through a computerized system known as the “Tally Board.” Each Region has a crew of two employees dedicated to Tally Board work, and the Contractor Liaisons have been given guidelines establishing the types of work these employees should perform. After deciding a job qualifies for the Tally Board, the Contractor Liaison schedules it on the computer, gathers any blueprints needed for the job, and delivers them along with the service and meter application to the Tally Board crew. The application and prints are delivered by hand if the crew reports to the same location as the Contractor Liaison or by facsimile transmission if the reporting location is different. The Tally Board employees contact the Contractor Liaison if they have questions about the job.

Service applications for more complex jobs are forwarded by the Contractor Liaisons to the Design Consultants. Again, any relevant prints are included, and delivery may be by hand or facsimile transmission depending on where the Design Consultants report. The Design Consultants meet with the customer, visit the site, design the job and make arrangements for field employees to perform the work. If a job is unusually complex, the Design Consultants will send it to Designers in the Regional Engineering group to prepare the design. But, the Design Consultants continue to act as the primary customer contact point even for jobs sent to Regional Engineering.

Design Consultants spend at least half of their time out of the office and are often unavailable when customers call with questions. The Contractor Liaisons field such calls and either respond or forward the inquiries to the appropriate Design Consultant. The Contractor Liaisons also act as conduits for inquiries from other PECO employees to the Design Consultants. In the Philadelphia Region, a Contractor Liaison attends regularly conducted

meetings concerning the progress of work and relays information to and from the Design Consultants and the meeting participants. Design Consultants prepare notes of their contacts with customers which the Customer Liaisons enter into the PECO computer system.

Once a new installation has been completed, a meter order is submitted to the Meter Services group. The Meter Services group hooks up the meter and forwards the order to the Contractor Liaison associated with the job who is responsible for entering information from the order into PECO's computer records. The Contractor Liaison follows up to make certain the customer is being billed for the service.

The Contractor Liaisons in the BucksMont and DelChester Regions schedule simple gas installation jobs through a procedure similar to that used for Tally Board work on the electric side. Customer requests to have hard covers placed over PECO equipment located near excavations are also scheduled by the Contractor Liaisons. Contractor Liaisons occasionally leave the office to check the status of a meter which is not recorded properly in the PECO records. Once a month, they spend a day with a Design Consultant for training purposes and three or four times per year they attend safety meetings with Design Consultants. Despite these occasional excursions, the Contractor Liaisons are in their offices 95 percent of the time.

Design Consultants are required to have a four year degree in a technical subject with three years of job experience or some other equivalent combination of education and experience. PECO requires Contractor Liaisons to have either an Associates Degree in a business-related subject with a minimum of one year experience in a customer contact role or a high school diploma and three years of experience with customer contact.

### **Analysis**

Status as a technical employee requires a showing that an employee performs work of a technical nature involving use of independent judgment and requiring the exercise of specialized

training acquired through specialized courses. The Contractor Liaisons gather documents for use by more skilled employees, do data entry and use a computer to schedule work, all tasks which are clerical in nature. They exercise some independent judgment in evaluating service applications to determine whether they should be handled by Design Consultants, but there is nothing suggesting that specialized training is required to perform this or any of the other functions handled by the Contractor Liaisons. In short, I find that the Employer has failed to establish that the work performed by the Contractor Liaisons is either technical in nature or requires specialized training. The Contractor Liaisons are not technical employees.

I shall nevertheless include the Contractor Liaisons in the unit as plant clericals. The Contractor Liaisons share office space with Design Consultants included in the unit by agreement of the parties. They are supervised by the same individuals who supervise the Design Consultants. They process service applications, enter data from meter orders and schedule Tally Board jobs, all functions directly related to the work done by the Design Consultants and other unit employees, and their jobs require regular contact with both the Design Consultants and other employees included in the unit.

Although the Contractor Liaisons spend virtually all of their time in an office environment, this standing alone is not enough to require their classification as office clericals. *John Hansen Co., Inc.*, 293 NLRB 63, 65 (1989). It is also true that the unit employees with whom the Contractor Liaisons have most frequent contact are the Design Consultants, and the Design Consultants are technical employees. Petitioner argues that only contact with production employees is relevant in determining whether clericals should be regarded as plant clericals and placed in a production unit. Petitioner has not, however, cited to any Board Decisions which support this distinction between contact with production employees and other unit employees, and I find the distinction to be without foundation. A significant community of interest with any

group of unit employees should be sufficient to require inclusion in the unit. In this case, Petitioner has agreed to include the Design Consultants in the unit, and the Contractor Liaisons share a community of interest with the Design Consultants sufficient to require their placement in the same unit. The fact that the Design Consultants are technical rather than production employees is simply not relevant.

Finally, I note that the Acting Regional Director excluded the Contractor Liaisons in his 1997 Decision, relying primarily on their role as customer advocates. The current record suggests that the Contractor Liaisons no longer continue to serve in a customer advocacy role. As a consequence, I find that the 1997 Decision does not require their exclusion from the unit in this case. I shall include the Contractor Liaisons in the unit. *Antioch Rock and Ready Mix*, 327 NLRB 1091, 1095 (1999); *Gordonville Industries*, 252 NLRB 563, 592 (1980).

**2. The Designers, Gas Design Technicians and Engineering Assistants in the Regional Engineering and Design groups**

The Regional Engineering and Design groups include Engineers, Engineering Analysts, Designers, Gas Design Technicians, and Engineering Assistants. The parties agree that the Engineers and Analysts should be excluded from the unit. They disagree over the placement of the Designers, Gas Design Technicians and Engineering Assistants, with the Employer seeking, and Petitioner, opposing the inclusion of the employees in these classifications.

The Engineering and Design groups are based in office areas located in the buildings which serve as the headquarters for the three Regions. The BucksMont Engineering group has its offices in the Warminster Service Building. The Philadelphia Engineering group operates from the Christian Service Building. The DelChester Engineering group is headquartered in the Coatesville Service Building, although some of the Designers have their work stations in the Baldwin Service Building.

**Designers and Gas Design Technicians.** The Regional Designers perform functions similar to those performed by the Design and Construction Consultants who have been included in the unit by agreement of the parties. Generally speaking, the Design Consultants do the design work for non-complex jobs. When more substantial modifications to PECO's gas or electric distributions facilities are contemplated, a Regional Designer is called in. The Design Consultants continue to act as a conduit to customers even on more complex jobs and have frequent contact with Regional Designers to monitor the progress of such jobs.

The design process begins with the Regional Designer being informed of the modifications or additions to the distribution system which are planned. The Regional Designer reviews blueprints of the facilities being modified and then visits the site to develop a model of how the job should be handled. Field employees and supervisors are often present during these initial site visits to provide input. If underground facilities are involved, field employees come along for safety reasons and may actually perform an inspection of the site and report the results to the Regional Designer.

Once the Regional Designer has developed a model, he or she returns to the office to prepare detailed drawings of the anticipated work. The drawings are typically done using the same computer assisted drafting program utilized by other Drafters and Designers within the PECO organization. Additional consultations with field employees follow to make certain the design is feasible, and the Regional Designer also assumes responsibility for securing any necessary permits and preparing a list of materials required for the job. The Regional Designer compiles a work packet including the design drawings, permits, materials list and other documents which is turned over to Regional Work Process Clerks for transmission to the field employees who will do the job.

Regional Designers monitor the progress of their projects while construction is in progress, visiting the job site once or twice per week. They also field questions from the employees performing the work about how the job should be done. Designers spend about 35 to 40 percent of their time outside the office.

Fewer Design Consultants are assigned to work on the PECO gas distribution system, and the Gas Design Technicians and Regional Designers involved with gas distribution often perform tasks which are normally handled by the Construction Consultants in the case of electrical work.<sup>16</sup> The Gas Designers might, for instance, negotiate contracts and act as the customer contact point for projects in which they are involved. When the amount of design work is too great, Design Consultants are asked to handle more complex designs which would normally be assigned to Regional Designers. Between 1997 and 2001, the Design Consultants in the Philadelphia Region routinely handled such complex designing because the volume of work was too great to be performed by the Regional Designers. Prior to 1995, the work currently being done by the Regional Designers and Design Consultants was handled by employees in a single classification.

I find the Regional Designers and Gas Design Technicians exercise independent judgment in performing work of a technical nature and should be regarded as technical employees. The Regional Designers and Gas Design Technicians perform work similar to that done by the Design Consultants included in the unit by agreement of the parties. They sometimes interchange duties with the Design Consultants. They have frequent contact with other unit employees in the course of designing and monitoring the progress of projects, and

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<sup>16</sup> Gas Design Technicians are present only in the BucksMont Region. PECO does not distribute natural gas in Philadelphia and has no need in its Philadelphia Region for employees who design modifications to the natural gas distribution system. Employees who perform design work in the DelChester Region are classified as Regional Designers regardless of whether they are involved with gas or electric distribution facilities.

their design work is a prerequisite for, and directly related to, construction and maintenance work done by the Line and Gas Mechanics who comprise the bulk of the unit. I therefore find that the Regional Designers and Gas Design Technicians share a community of interest with other unit employees, carry out functionally related duties and should be included in the unit. See, *PECO Energy Company*, 322 NLRB at 1084-85.

**Engineering Assistants.** Each Regional Engineering group employs an Engineering Assistant. Like the Designers and other Engineering group employees, the Engineering Assistants report to the Regional Engineering and Design Managers. The Engineering Assistants occupy work stations in the same office areas which house the Regional Designers.

Engineering Assistants respond to customer complaints about Regional operations. Some complaints are forwarded to the Engineering Assistants by Customer Consultants in PECO's Call Center. Others are relayed by the Line and Gas Mechanics who make up the bulk of each Region's workforce. The Engineering Assistants also handle customer complaints relayed to PECO by the Pennsylvania Public Utilities Commission.

When confronted with a complaint, the Engineering Assistants contact both the customer and any PECO employees involved to obtain the information needed to respond. They often make site visits to observe the offending activity and speak face-to-face with the Line and Gas Mechanics doing the work which generated the complaint. Former Philadelphia Regional Engineering group manager Earl Coffman estimated that Philadelphia Engineering Assistant Ron Hayden spends 75 percent of his time out of the office visiting job sites. The Engineering Assistants wear protective clothing when on site. In the case of the complaints relayed by the Pennsylvania Public Utilities Commission, the Engineering Assistants are required to prepare a

written reports of the steps taken to resolve the matter which are used as the basis for PECO's response to the Commonwealth.

I find the Engineering Assistants to be plant clericals who should be included in the unit. The Engineering Assistants work in the same areas as, and share supervisors with, the Regional Designers I have included in the unit. They have frequent contact with unit employees in the course of performing their functions, some of which is face-to-face, and they often visit the job sites at which unit Line and Gas Mechanics work. The principal focus of the Engineering Assistants' work is customer relations, but I find the absence of a direct link between their job functions and the functions performed by unit employees is outweighed by the other factors – i.e., common supervision, same work location and frequent contact – establishing a community of interest.<sup>17</sup>

### **3. The Work Process Clerks and Junior Analysts in the Work Management groups**

The Regional Work Management sections are responsible for scheduling the work performed by other employees in the Regions, preparing financial reports regarding Regional operations, and providing clerical support within the Regions. The sections are supervised by Work Management managers and include Regional Work Coordinators, Work Week Managers and Operations Analysts excluded from the unit by agreement of the parties. They also include Work Process Clerks and Junior Analysts whose status is in dispute.

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<sup>17</sup> I previously excluded from the unit William Nendza, an Engineering Assistant in the Customer Response section of the Operations Department, and Nendza, like the Regional Engineering Assistants, responds to customer complaints. However, unlike the Regional Assistants, Nendza is assigned to a group within Customer Response which does not include other unit employees, is separately supervised, does not share a work location with unit employees, works almost exclusively in an office and has contact with unit employees principally by telephone. In short, I find Nendza's situation to be sufficiently distinct from that of the Regional Assistants to warrant different treatment.

## **Work Process Clerks.**

### **Facts**

The Work Process Clerks input payroll data for the employees in the Regions' Work Management and Maintenance sections. The Maintenance sections include the Line and Gas Mechanics who are responsible for maintaining PECO gas and electric distribution facilities and who comprise much of the bargaining unit. Employees submit timesheets indicating the hours they work which are forwarded to the Work Process Clerks. The sheets may be hand-delivered, placed in bins or submitted by facsimile transmission.

Work Process Clerks input information from the timesheets into PECO computers. They contact the employees who prepared the sheets if they have questions, and the employees contact the Work Process Clerks with inquiries about their pay. The exchanges between the Work Process Clerks and unit Mechanics are normally by telephone although they may involve face-to-face contact. The Work Process Clerks also process employee requests to be reimbursed for expenses incurred in the course of performing their duties.

Another function performed by the Work Process Clerks is the compilation of Work Order Packets which contain the documents needed by Mechanics in performing jobs. The work orders originate with the Work Week Managers or come from other parts of the PECO organization. The role of the Work Process Clerks is limited to gathering the blueprints and standardized forms needed by the Mechanics and placing them in a binder or folder. The binders and folders are either given to the Mechanics' supervisors when they visit the locations at which the Work Process Clerks work or sent by the Work Process Clerks through intra-company mail.

The packets are returned to the Work Process Clerks when the work is completed, and the Work Process Clerks enter into the PECO computers any notes prepared by the field employees in the course of performing the job along with an indication that the job has been

finished. The Work Process Clerks remove any forms which require further action such as requests for the removal of downed poles or the repaving of streets and sidewalks which were excavated in the course of performing the work and forward the forms to the appropriate segment of the PECO organization. The remainder of the packet is sent to the Mapping and Document Services group for filing. Some contact with the Mechanics who performed the work may be required if the Work Process Clerks have any questions about the documents submitted along with the work packet.

A number of additional clerical functions are performed by the Work Process Clerks. They do any filing and copying required by Maintenance employees. They order office supplies for the Regions' Work Management and Maintenance sections. They secure permits needed by Maintenance employees to perform their work, contact customers at the request of the Maintenance employees to reschedule appointments and maintain lists of the overtime hours worked by Maintenance employees for use by supervisors in equalizing work. Work Process Clerks in Philadelphia attend safety meetings with Maintenance employees and prepare minutes. One of the Work Process Clerks in the BucksMont Region makes appointments for meter installation and repair. Maintenance supervisors and employees sometimes contact Work Process Clerks during the work day with various requests. Work Process Clerks might, for instance, be asked to contact a customer so that employees can obtain access to the customer's premises, to speak to municipal officials when there is confusion over a permit or to find a Work Week Manager or other supervisor so an employee can ask a question.

All 10 of the Work Process Clerks employed by the BucksMont Region work in an office area in the Warminster Service Building which they share with other Work Management section employees. Only three of the 12 Maintenance crews in the BucksMont Region report to Warminster, and these crews do not report to the area occupied by the Work Management staff.

Six of the eight Work Process Clerks assigned to the Philadelphia Region work exclusively in an office area at the Christian Street Service Building. One of the two remaining Work Process Clerks spends three days per week at Christian Street and two days in a Service Building located on Luzerne Street in Philadelphia where he sits at a work station situated in the area to which Line Mechanics report at the beginning and end of their shifts. The eighth Work Process Clerk spends all of his time at a Service Building on Oregon Avenue in Philadelphia. This Work Process Clerk also has his work station in an area to which Line Mechanics report.

Each of the DelChester Region's 11 Work Process Clerks is assigned to support a single team of Line or Gas Mechanics. Four of the Work Process Clerks spend all of their time in the Work Management office area in the Coatesville Service Building. Three Work Process Clerks divide their time between Coatesville and the locations to which their teams report. Four Work Process Clerks work at the Baldwin Service Center which is also where the teams they support report.

The Work Process Clerks rarely leave the offices to which they are assigned. Most of their contact with unit employees is by telephone or two-way radio.

### **Analysis**

Although the Work Process Clerks have some attributes of plant clericals, I find the weight of the evidence supports a finding that they are office clericals who should be excluded from the unit. The Work Process Clerks work in office areas which are in most instances separate from the locations at which unit employees work. They are supervised by individuals who do not have any responsibility for unit employees. Their contact with unit employees is mostly by telephone or radio, and much of their work consists of the sort of data entry traditionally associated with office clericals. I shall therefore exclude the Regional Work Process Clerks from the unit. See, *Cook Composites, supra*, 313 NLRB at 1108; *Cooper Hand*

*Tools, supra*, 328 NLRB at 184; *Mitchellace, Inc., supra*; *Container Research Corporation, supra*, 188 NLRB at 587; *Jackel Motors, supra*, 288 NLRB at 742; *Nuturn Corporation, supra*.<sup>18</sup>

**Junior Analysts.** Junior Analysts are employed in the Work Management sections of the DelChester and BucksMont Regions. There is no Junior Analyst in Philadelphia. The Junior Analysts take notes at daily meetings at which supervisors and planners determine the priority to be assigned work orders and decide which crews of employees will do the work. Following the meetings, they prepare or revise schedules showing which employees will handle particular work orders, the nature of the work involved, and the order in which work should be done, and they e-mail the schedules to Maintenance supervisors. They also distribute written copies once a week.

The Junior Analysts work in the office areas occupied by other Work Management employees. They spend virtually all of their time in the office. Some of the employees participating in the daily meetings are Line or Gas Mechanics serving as planners for their crews. Other than these individuals, there is no evidence of direct contact between the Junior Analysts and unit employees.

The Junior Analysts work in an office environment typing schedules and schedule revisions. They are separately supervised and have little contact with unit employees. I find they are office clericals and shall exclude them from the unit.

#### **4. The Maintenance Assistants in the Maintenance sections**

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<sup>18</sup> The Acting Regional Director's 1997 Decision refers to several classifications of clericals who perform functions currently performed by the Regional Work Process Clerks. Some of these clericals were included in the unit by agreement of the parties, and others were allowed to vote under challenge. Since none of the clericals dealt with in 1997 had duties identical to those currently performed by the Regional Work Process Clerks, I find the 1997 Decision to be of limited value in determining the Clerks' eligibility.

As noted previously, the Regional Maintenance sections include the Line and Gas Mechanics who perform the work of maintaining and repairing PECO distribution facilities and who comprise a significant segment of the bargaining unit. The Line and Gas Mechanics generally report to foremen and supervisors who, in turn, report to the Regional Maintenance Managers. In addition to the Line and Gas Mechanics, each of the Regional Maintenance sections employs two Maintenance Assistants who report directly to the Maintenance Managers. The placement of these Maintenance Assistants is disputed, with the Petitioner opposing their inclusion and the Employer arguing that they should be included in the unit as technical employees who share a close community of interest with unit employees.

### **Facts**

The duties performed by the Regional Maintenance Assistants are similar to those performed by the Maintenance Assistant in the Transmission and Substations section of the Operations Department that I have already included in the unit. They primarily handle environmental clean-up. Transformers located throughout the PECO distribution system contain oil, some of which is contaminated by PCBs. When accidents produce oil spills, the Maintenance Assistants are called in to assess the spill and either clean it up or summon a contractor to do the work.

In those cases in which the Maintenance Assistants do the clean-up work themselves, they are often assisted by Line Mechanics. Many of the spills in the Philadelphia Region occur in underground facilities, and company safety procedures require that Line Mechanics must accompany the Maintenance Assistants when they clean these spills. The Maintenance Assistants also perform tests using dye to determine the source of water contamination in

underground facilities. In Philadelphia, Maintenance Assistants remove and dispose of asbestos used as a fireproofing wrap on cable.<sup>19</sup>

Another of the functions handled by the Maintenance Assistants is to participate in periodic inspections of the facilities within the Regions to look for environmental and safety hazards. They assist in the safety training of unit Mechanics, and they inspect equipment slated for disposal to be certain it is being stored in compliance with environmental regulations. In some cases, the Maintenance Assistants take oil or air samples for testing by either contractors or other PECO employees.

The Maintenance Assistants have cubicles located in the office areas of the Service Buildings which serve as the Regional headquarters. Most of their time, however, is spent out of the office. Witnesses estimated that the Maintenance Assistants spend 60 to 80 percent of their time in the field. Maintenance Assistants work during the day, with their hours arranged to coincide with the hours worked by Line and Gas Mechanics. The Maintenance Assistants wear protective clothing similar to that worn by the Line and Gas Mechanics and use some of the same equipment. Many of the Maintenance Assistants previously worked as Mechanics and were selected because of their field experience. As much as 30 percent of the Maintenance Assistants' time is spent in contact with Line or Gas Mechanics.

### **Analysis**

As was the case with the Maintenance Assistant in the Transmission and Substation

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<sup>19</sup> The Maintenance Assistants in the BucksMont and DelChester Regions are not trained in asbestos removal.

section, I regard it as unnecessary to resolve the Employer's claim that the Regional Maintenance Assistants qualify as technical employees. Regardless of whether they enjoy such status, I find they should be included in the unit. The Maintenance Assistants spend the majority of their time performing maintenance work on PECO's distribution facilities. They often work with unit employees in the course of their jobs, use equipment identical to that utilized by unit employees, and wear similar protective clothing. The Maintenance Assistants are supervised by the same individuals who manage unit employees. In short, I conclude that the Maintenance Assistants share a community of interest with unit employees sufficient to require their inclusion in the same unit.

#### **IV. DISPUTED CLASSIFICATIONS IN THE EED SUPPORT SERVICES DEPARTMENT**

##### **A. The Contractor and Project Management Section**

##### **1. The Designer/Engineer**

The Contractor and Project Management section is divided into five groups, one of which is called Project Management. Maureen Byers serves as the Manager for Project Management, which is based in the Warminster Service Building and has responsibility for coordinating large or complex construction projects. The group consists of a number of individuals who are excluded from the unit by agreement of the parties including a Project Leader, five Lead Installation Representatives, 12 Project Managers, and four Lead Responsible Engineers. It also includes a contract employee who functions as a Designer. The parties agreed to exclude this individual because he is not on the PECO payroll.

Only one Project Management employee – Leo Clampffer – is in dispute. Clampffer is classified as a Designer but serves as a Lead Engineer. The Employer argues that the duties

Clampffer performs are similar to those handled by classifications such as Designer and Design and Construction Consultant which have been included in the unit and that Clampffer, like the employees in these classifications, should be included based on his community of interest with bargaining unit employees. Petitioner contends that Clampffer should be excluded because, whatever his classification, he currently occupies a position – Lead Responsible Engineer – which has been excluded from the unit by agreement of the parties.

Clampffer was employed as a Designer in 1998 when the Employer created the position of Lead Responsible Engineer. At the time, he was coordinating the work PECO was required to perform in connection with a major road renovation project and assisting in the design of cell phone towers erected by other companies within the area serviced by PECO. Since the coordinating functions performed by Clampffer on these two jobs were similar to the tasks the Employer intended for its Lead Engineers, Clampffer was placed in the Project Management group and treated as a Lead Engineer. Clampffer has been serving as a Lead Engineer since 1998. Although he continues to be classified as a Designer, the Employer appears to have no plans to return him to performing Designer functions.

The work currently done by Clampffer is similar to that performed by the other Lead Responsible Engineers, although he is usually assigned the least complex projects handled by the Project Management group. The majority of Clampffer's time – about 90 percent - is spent on facility relocation jobs. These jobs typically involve moving PECO facilities to accommodate road and other new construction.

Clampffer becomes involved at the outset of such projects, creating a rough design and cost estimate. The job is then turned over to one or more of the Designers in the Transmission and Substations group or the Regions for preparation of a detailed design. Clampffer coordinates the design work, plans the performance of the actual construction and arranges for

delivery of any materials needed for the project. He is available to answer questions while the work is in progress. When the work is concluded, he reviews drawings of the relocated facilities to be certain they are accurate and forwards them to the Mapping and Document Services group. Clampffer has significant contact in the course of performing his duties with the Regional Designers and the foremen in charge of the Line and Gas Mechanics who do the relocation work.

When not involved in facility relocation, Clampffer works on the erection of cell phone towers being built by companies other than PECO. These companies contact PECO's Real Estate Department to ask if a tower can be built on PECO-owned property or to determine whether a tower will interfere with PECO distribution facilities. The Real Estate Department refers such requests to Clampffer, who works with Regional Designers to evaluate the feasibility and cost of the proposal. If the requester decides to go ahead with the project, Clampffer coordinates any design or construction work PECO performs in connection with the job.

Clampffer is assigned a cubicle in the Project Management group's office area in the Warminster Service Building. He spends about half his time in the office. When visiting job sites, Clampffer wears protective clothing identical to that worn by unit employees.

The work done by Clampffer, to a certain extent, resembles the tasks performed by Designers and Design and Construction Consultants who are included in the unit, but, Clampffer's duties are also the same as those performed by the Lead Responsible Engineers. Although classified as a Designer, he is considered a Lead Responsible Engineer. The parties have agreed that the Lead Engineers other than Clampffer should be excluded from the bargaining unit. There is no basis for including Clampffer when the four remaining employees who occupy the same position and perform essentially the same functions are excluded. There is no evidence that the Employer has any specific plans to return Clampffer to a Designer position.

Absent such evidence, I find Clampffer should be excluded from the unit. *Mrs. Baird's Bakeries, Inc.*, 323 NLRB 607 (1997).

## **2. The Paving Inspector/Coordinators**

Construction and Maintenance is another of the five groups within the Contractor and Project Management section.<sup>20</sup> Managed by William Clark, this group is responsible for preparing the specifications for work which is contracted out, overseeing the process of bidding and awarding contracts, monitoring contractor performance, and approving payment to contractors. Construction and Maintenance includes 11 Quality Control Inspectors, who are contract employees, along with seven Contract Administrators, three Quality Specialists, three Paving Inspector/Coordinators and a Material Process Clerk. The parties agree that the Contract Administrators and Quality Specialists should be excluded from the unit, but disagree on the status of the Paving Inspectors and Material Process Clerk. The Employer argues that the employees in these classifications should be included in the bargaining unit. Petitioner seeks to exclude them.

### **Facts**

PECO operations sometimes cause damage to streets, sidewalks or customer lawns, and the company takes responsibility for correcting such damage. The job of effecting permanent repairs has been subcontracted. A PECO field crew which causes damage will submit a request to have the contractor repair it. These requests are forwarded to the Construction and Maintenance group for approval and submission to the contractor.

When the work has been completed, the contractor submits an invoice seeking payment.

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<sup>20</sup> There are no disputed positions in the groups other than Construction and Maintenance and Project Management.

The Paving Inspectors review these invoices to confirm that the contractor is charging PECO the proper rate, and in approximately 10 percent of cases, the Paving Inspectors visit the site to make certain the work has been done properly. If problems are discovered, the Paving Inspectors refer the matter to the Contract Administrators for resolution. Assuming everything is in order, Paving Inspectors approve invoices for payment.

The Paving Inspectors also respond to customer complaints about either damage allegedly caused by PECO operations or the quality of the work performed by the contractors who repair such damage. Such complaints are directed to the Material Process Clerk working in Construction and Maintenance who passes them on to the Paving Inspectors. The Paving Inspectors visit the site to determine whether the damage was caused by PECO or the work done properly. If there is a question of PECO responsibility, a Paving Inspector may contact the foreman in charge of the PECO crew which worked at the site to obtain relevant information. Construction and Maintenance Manager Clark estimated that such contacts take place two or three times per week.

The Paving Inspectors carry shovels and bags of asphalt in their PECO-supplied vehicles. When appropriate, they use this equipment to make temporary repairs by filling potholes or placing dirt in holes in customers' lawns. The Paving Inspectors have been instructed to make such repairs only if they can be done in less than two hours. Clark estimated that a Paving Inspector normally performs temporary repairs three to five times per week. PECO Line and Gas Mechanics sometimes assist the Paving Inspectors in making the repairs. Clark estimated that such assistance is provided about once each week.

Although Clark and the bulk of the Contractor and Maintenance group is based in the Warminster Service Building, the Paving Inspectors and Material Process Clerk occupy an office located at a PECO facility located in Berwyn. This office is adjacent to a garage in which PECO

owned vehicles are repaired. Mechanics included in the unit by agreement of the parties work in this garage, but there does not appear to be any work-related contact between these Mechanics and either the Paving Inspectors or the Material Process Clerk. Each of the Paving Inspectors has a desk in the office, and they normally stop at the Berwyn site each morning to drop off and pick up work orders. Clark estimated that the Paving Inspectors spend about 30 percent of their time in the office.

The Construction and Maintenance group was created in 1998, and the Paving Inspector job was established in 1999. Before 1999, the functions currently being handled by the Paving Inspectors were performed by Line and Gas Mechanics assigned to the PECO Regions. The Employer requires Paving Inspectors to have strong interpersonal and communications skills, an understanding of paving and landscaping technique and three to five years of gas and electric distribution construction experience. The three individuals currently working as Paving Inspectors previously served as Line or Gas Mechanics.

### **Analysis**

I find that the Paving Inspectors do not share a community of interest with unit employees sufficient to require their inclusion in the unit. The Paving Inspectors have some contact with the unit, spend time on job sites frequented by unit employees and engage in some physical labor. It would not be inappropriate to include them in the unit, but they do not have a level of contact with unit employees sufficient to require their inclusion.

The Paving Inspectors work in a group dedicated to dealing with PECO contractors and their principal function is to monitor the work of the contractors responsible for repairing damage caused by PECO operations. They are part of an organizational component – the Construction and Maintenance group – which does not include other unit employees, and they report to a manager – Clark – who does not supervise other employees included in the unit. The

office area occupied by the Paving Inspectors is adjacent to a garage in which unit employees work, but the Paving Inspectors do not have work-related contact with the garage mechanics and the office's location does not appear designed to permit the Paving Inspectors to work in close proximity to unit employees. To the extent the Paving Inspectors do physical labor, they are performing landscaping work normally done by contract employees as opposed to unit employees. The Paving Inspectors do not interchange with unit employees, and much of their contact with the unit is through foremen. When not monitoring contractor compliance, the Paving Inspectors' focus is on customer relations, and the Employer requires Paving Inspectors to have interpersonal skills not typically associated with the Mechanic positions which comprise the bulk of the unit. In sum, I find the Paving Inspectors are sufficiently distinct from unit employees to permit their exclusion from the unit.<sup>21</sup>

### **3. Material Process Clerk Lola Hankerson**

Like the Paving Inspectors, Hankerson is part of the Construction and Maintenance group. She spends all of her time in the office area in Berwyn also used by the Paving Inspectors. Hankerson enters payroll data for the Construction and Maintenance group.

She also prints work orders forwarded to the Construction and Maintenance group and distributes them to the Paving Inspectors. Each Paving Inspector is assigned a geographic territory, and Hankerson divides the orders based on location. The orders are returned to

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<sup>21</sup> I have previously included in the unit employees in certain classifications – Damage Prevention Inspectors and Transmission and Substation and Regional Maintenance Assistants – who also interact with PECO contractors. I believe the dissimilarities between the Paving Inspectors and the employees in those classifications are sufficient to warrant different treatment. The Damage Prevention Inspectors spend a significant portion of their time discussing safety issues and providing other assistance to unit employees, and they are often called upon to substitute for unit employees in responding to reports of gas odors. The Maintenance Assistants report to the same supervisors as unit employees and devote a considerable portion of their work time actually cleaning up oil spills.

The Paving Inspectors, in contrast, work for a supervisor who does not manage unit employees, focus principally on monitoring as opposed to performing work, do not directly assist unit employees in

Hankerson at the conclusion of the job so she can input information about the work performed into the PECO computer system and then file the order. Hankerson answers the telephone in the Berwyn office and relays messages to the Inspectors. She works the same day shift hours as the Inspectors so she will be available to support them.

The Employer argues that Hankerson should be viewed as a plant clerical based on her close working relationship with the Paving Inspectors. This argument might have some merit if the Paving Inspectors were part of the unit, but, having excluded the Paving Inspectors, I shall also exclude Lola Hankerson from the unit.

**B. The Supply Chain Management section**

**1. The Electric Shop Junior Analyst**

The Supply Chain Management section purchases and distributes the supplies used by other PECO employees. The section is divided into three groups – Supply Services East, Supply Services West, and Strategic Sourcing. Only one of these groups – Supply Services East – includes unit employees.

The Electric Shop is a subgroup within Supply Services East. Until early 2002, the Electric Shop was attached to a different Exelon subsidiary, and Electric Shop employees were not at issue in the earlier cases involving PECO. Located on the first floor of the Oregon Street Service Building, the Electric Shop tests and repairs electrical equipment used in the PECO distribution system.

Raj Chopra manages the Electric Shop and has an office overlooking the shop area where Electric Shop employees work. Reporting to Chopra are foreman Bill Graziani, six Energy Technicians, three General Utility Employees, a Paint Blaster, and Junior Analyst Joe Fragala.

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the performance of their jobs and are not called upon to interchange duties with employees included in the unit.

The Technicians, Utility Employees and Paint Blaster test and repair equipment. The parties agree that the individuals in these classifications should be included in the unit. Their disagreement is over the placement of Junior Analyst Fragala. The Employer would include him as a plant clerical, while Petitioner insists he is an office clerical who should be excluded.

Fragala is responsible for inputting payroll data for Electric Shop employees. A book is maintained in the shop in which employees record each of the jobs on which they work, along with the amount of time spent on the job. Fragala inputs the information contained in this book into the PECO computer record keeping system, and the data is used to generate the shop payroll and to allocate the cost of the work performed by shop employees to the appropriate segment of the PECO organization. Electric Shop employees may bring questions about their paychecks to Fragala, although they can also use a company 800 telephone number to try to resolve such questions.

In addition to his timekeeping functions, Fragala picks up and distributes mail for Electric Shop employees. He also serves as a conduit for telephone and e-mail messages. Once a month, Fragala spends four to six hours walking through the shop to make certain operations are being conducted in accordance with environmental standards. Every Thursday, Fragala spends 30 minutes helping other employees clean up the Electric Shop.

Fragala gathers records used in determining whether the Electric Shop is meeting PECO performance goals. He orders office supplies and safety clothing for the Electric Shop. If Foreman Graziani is absent, Fragala orders, receives and distributes the parts and equipment needed by shop employees to do equipment repair.

Fragala occupies a desk which is adjacent to Manager Chopra's office and which overlooks the shop floor. He works from 6:00 a.m. to 3:30 p.m., the same hours as other Electric Shop employees. While on the job, Fragala wears a blue PECO shirt, fire-retardant pants and

steel-toe boots, the same clothing worn by other Electric Shop employees. Fragala wears safety glasses when he visits the shop area.

The Board has, in some cases, found employees who input payroll data to be office clericals. See, e.g., *PECO Energy Co.*, 322 NLRB 1074, 1085 (1997); *Power, Inc.*, 311 NLRB 599, 608 (1993). Where such employees report to production supervisors, work in the same areas as production employees and have regular contact with such employees, however, they are generally viewed as plant clericals and included in units with production employees. *J. Ray McDermott & Co., Inc.*, 240 NLRB 864, 869 (1979); *Weyerhaeuser Co.*, 132 NLRB 84, 85 (1961); *Goodman Mfg. Co.*, 58 NLRB 531, 533 (1944). Fragala reports to the same supervisor as the Electric Shop employees who are included in the unit; works in an office area adjacent to the Electric Shop; has frequent contact with Electric Shop employees; and regularly spends at least some of his time assisting them in the performance of their duties. I therefore find that Fragala is a plant clerical, and I shall include him in the unit.

2. **Material Process Clerks in the Material Availability and Material and Logistics Subgroups**

Material Availability and Material and Logistics are two additional subgroups within the Supply Services East group. Each of these subgroups employs a Material Process Clerk whose status is disputed by the parties. The Employer contends that the Material Process Clerks are plant clericals who should be in the unit. Petitioner maintains that they are office clericals and opposes their inclusion.

**Facts**

The Material and Logistics subgroup is responsible for handling and storing supplies. It operates both a central warehouse in a facility in Berwyn known as the 1050 Building and storerooms in service buildings throughout the PECO service area. The warehouse and

storerooms are staffed by Material Coordinators who are included in the unit by agreement of the parties. The Logistics subgroup also employs Equipment Operators, Drivers and Helpers, who work for the most part in the 1050 Building and who have also been included in the unit by agreement of the parties.

The Material Coordinators report to two Material Supervisors. The Equipment Operators, Drivers and Helpers report to Transportation Supervisor Mary Jeep. Jeep and the Material Supervisors report to Material and Logistics Manager Bob Landgraf. Landgraf also serves as the direct supervisor for Material Process Clerk Deborah Thompson.

Thompson's primary function is to input payroll data for the other employees in the Material and Logistics subgroup. The Material Coordinators are divided into four groups based on where they work – i.e., Berwyn, BucksMont, DelChester or Philadelphia. Each of the groups has designated one Material Coordinator to gather the timesheets for the group and transmit them to Thompson. If Thompson has questions about the timesheets, she normally contacts the Material Coordinator responsible for transmission. Equipment Operators, Drivers and Helpers deliver their own timesheets to Thompson either by facsimile transmission or in person, and she contacts the individual employees in these classifications if she has questions. In conjunction with her timekeeping function, Thompson prepares call-out lists used by supervisors in selecting employees to work overtime and lists indicating whether drivers have worked over 60 hours in a week.

The other function performed by Thompson is maintaining a computerized catalog of the materials used by PECO. Material Coordinators or other employees contact Thompson if they wish to have parts added to or deleted from the catalog. She obtains the necessary information from the individuals seeking the change and makes the required entries in the computer.

Thompson works from a cubicle located in an office area off a hallway in the 1050 Building. At one end of the hallway is the dispatch area to which Equipment Operators, Drivers and Helpers report. At the opposite end is a garage which houses mechanics who perform repairs on PECO vehicles and a break room used by all of the employees working in the building. The garage mechanics have been included in the unit by agreement of the parties.

Thompson wears casual business clothes while on the job. She starts and ends work earlier than other employees in the Material and Logistics group so that she can input payroll data received at the end one work day as early as possible in the next day. Material and Logistics Manager Landgraf estimated that Thompson had daily contact with unit employees about their timesheets and contact at least twice per week about additions to or subtractions from the material catalog.<sup>22</sup>

The second of the disputed Material Process Clerks is Jeanne Viscusi. Viscusi is assigned to the Material Availability subgroup. Material Availability tracks demand for supplies and deals with the suppliers who provide them. The parties have agreed that all of the employees in the subgroup except for Viscusi should be excluded from the unit.

Viscusi enters payroll data for employees in Material Availability and two other subgroups within Supply Service East. None of these employees are included in the unit. She also assists Thompson with the maintenance of the materials catalog and prepares purchase and change orders for Purchasing Associates who work in Material Availability. Finally, Viscusi generates reports showing whether suppliers are making timely deliveries. These reports are forwarded to Material Coordinators so they can follow-up where appropriate.

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<sup>22</sup> An employee who performed functions similar to those currently handled by Thompson was permitted to vote subject to challenge in 1997.

Landgraf estimated that Viscusi speaks to Material Coordinators about two times per week regarding the catalog and an additional two times per week concerning her reports. There is no evidence she has any further contact with employees included in the unit. Viscusi has a cubicle in the same office area occupied by Thompson. She reports directly to Material Availability Manager William Gallagher.

### **Analysis**

I find that both Thompson and Viscusi are office clericals who should be excluded from the unit. Thompson is part of a subgroup which includes unit employees and has some regular contact with those employees, factors which suggest plant clerical status. These factors are outweighed, however, by other considerations. Thompson's immediate supervisor, Landgraf, does not serve as the immediate supervisor for unit employees. Thompson works in an office area removed from the areas in which unit employees work. Most of her job consists of performing data entry functions which the Board has characterized as consistent with office clerical status. *PECO Energy Co.*, 322 NLRB 1074, 1085 (1997). In short, Thompson is an office clerical employee. I shall exclude her from the unit.

Viscusi works in a subgroup which includes no unit employees and is supervised by a manager who does not supervise unit employees. Like Thompson, she spends much of her time performing data entry functions characteristic of office clericals. Her contact with unit employees appears limited to four or five telephone calls per week. I shall exclude her from the unit as an office clerical employee.

### **C. The Lab Technicians in the Environmental Management and Field Services group**

The Environmental Management and Field Services group is responsible for making certain that PECO complies with environmental regulations. Allan Fernandes manages the

group which includes Environmental Project Consultants, Environmental Compliance Specialists, a Field Services Project Manager, a Field Services Specialist, a Chemist and three Lab Technicians.<sup>23</sup> The parties agree that all of the employees in the group should be excluded from the unit with the exception of the Lab Technicians. The Employer argues that the Lab Technicians are technical employees who share a community of interest with unit employees sufficient to require their inclusion in the unit. Petitioner agrees that the Lab Technicians are technical, but would exclude them.

The Lab Technicians and Chemist work in a laboratory located on the second floor of a gas plant operated by PECO in West Conshohocken, Pennsylvania. The Plant Operations Mechanics who run the plant have been included in the unit by agreement of the parties. The Lab Technicians do laboratory tests to determine the quality of and detect PCBs in oil samples taken from PECO equipment. Most of this testing is done at the West Conshohocken lab although preliminary tests for PCBs are performed on site. The Lab Technicians prepare samples, run them through the machines used in testing and obtain results. The Chemist is present during all tests and interprets the results before they are released.

Most of the samples tested by the Lab Technicians are secured by Maintenance Technicians who are assigned to the Transmission and Substations group in the Operations Department. The Maintenance Technicians are included in the bargaining unit. Ten Maintenance Technicians are assigned to obtain samples, and they visit the West Conshohocken lab throughout the work day to drop them off. Lab Technicians speak with the Maintenance Technicians at the time samples arrive to review the chain of custody. A room adjacent to the lab

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<sup>23</sup> Although two Technicians are classified as “senior,” there is no difference in the duties performed by these Technicians and the Technician who has not as yet secured “senior” status.

has been reserved for use by the Maintenance Technicians, and the Maintenance Technicians use the room to conduct monthly safety meetings which are often attended by the Chemist and Lab Technicians.

Two of the three Lab Technicians have been trained in asbestos abatement and will sometimes leave the lab to perform this function at the sites where the asbestos laden equipment is situated. Equipment containing asbestos is often located underground, and the Lab Technicians have been trained in the appropriate procedures to use when working below street level. Field employees included in the unit receive this same training. Field crews are usually present for safety reasons whenever Lab Technicians go underground to remove equipment containing asbestos.

One of the Lab Technicians is always on-call in case of an oil spill requiring on-site testing. The Lab Technicians and other Environmental Management group employees also serve as environmental coordinators on a rotating basis. When serving as environmental coordinators, the Lab Technicians visit the sites of spills to assist with clean-up. Field crews are usually present at the site during spill clean-up. The Lab Technicians serve in the environmental coordinator role one out of every eight weeks.

The Lab Technicians spend most of their time on job sites during the week in which they serve as the environmental coordinator. When not serving as environmental coordinator, the Lab Technicians spend most of their time in the lab. Because the Lab Technicians spend some time on job sites, they have been issued the same protective equipment – hard hat, safety glasses, steel toe boots and fire retardant clothing – worn by unit employees.

The Lab Technicians are required to have a high school diploma and either lab experience or some knowledge of chemistry. Before September 1999, they worked in a laboratory located in Valley Forge, Pennsylvania, and were considered part of an organizational

unit which included PECO nuclear generating plants. The Lab Technicians voted in a 1997 representation election involving the nuclear plant production and maintenance employees. See, *PECO, supra*, 322 NLRB at 998.<sup>24</sup>

### **Analysis**

I shall include the Lab Technicians in the bargaining unit. Although the Lab Technicians are separately supervised, they perform functions integrated with those of unit employees. The laboratory in which they work is located in a building which houses Plant Operations Mechanics included in the bargaining unit, and other unit employees frequently visit the laboratory to leave samples with the Lab Technicians. The Lab Technicians spend at least some of their time away from the lab on job sites where they work alongside unit employees. The clean-up work they perform is similar to the work done by the Transmission and Substation and Regional Maintenance Assistants I have included in the unit. In short, regardless of whether the Lab Technicians are viewed as technical employees, I find they share a community of interest with unit employees sufficient to require their placement in the bargaining unit. *The Horn and Hardart Company*, 147 NLRB 654 (1964); *Dewey Portland Cement Company*, 137 NLRB 944 (1962). Cf. *Penn Color, Inc.*, 249 NLRB 1117, 1119-1120 (1980).

## **V. THE MAIL BALLOT ELECTION**

Petitioner seeks a mail ballot election. The Board's long-standing policy is that

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<sup>24</sup> The Lab Technicians were classified as Chemistry Assistants at the time of the 1997 election. The Board included them in the bargaining unit because their duties were similar to those of chemistry technicians who worked at the nuclear generation plants and had been included in the unit at Petitioner's request. This petition does not involve nuclear generation facilities, and the Petitioner in this case has not sought inclusion of any laboratory employees. As a consequence, the 1997 Decision is of limited value in assessing the Lab Technicians' status and does not compel a finding that they should be placed in the unit.

representation elections should as a general rule be conducted manually either at the workplace or at some other appropriate location. However, a Regional Director has the discretion to order balloting by mail. A mail ballot election may be appropriate where eligible voters are scattered over a wide geographical area; voter work schedules vary significantly; or a strike, lockout or picketing is in progress. Factors to be considered in determining whether to have mail voting include the desires of the parties; the likely ability of voters to read and understand mail ballots; the availability of addresses for voters; and the most efficient use of Board resources. See *San Diego Gas and Electric*, 325 NLRB 1143, 1144 (1998).

Although the unit employees in this case work throughout a five county area, there are approximately 17 Service Buildings to which most employees report. Petitioner concedes that it would take no more than about one hour to travel the greatest distance between buildings. Some employees normally travel directly from their homes to work sites, but even these employees are assigned to a particular building and could vary their typical pattern to report to that building on the date of the election. Some portions of the PECO operation work on a three shift basis, but the hours of the shifts appear relatively consistent throughout the organization, and this is not a situation in which employees work widely divergent hours making it difficult to establish an election schedule.

Finally, an election in this bargaining unit was conducted manually in 1999. There is no evidence that scheduling was unreasonably difficult; that any problems resulted from either the geographic extent of the Employer's operation or the work schedules of employees; or that the election placed an excessive strain on Board resources. Given the Board's expressed preference for manual elections and the fact that a manual election was previously conducted in this unit without incident, I see no reason to use mail ballots here. I therefore deny Petitioner's request for a mail ballot election.

## **VI. CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All production and maintenance employees employed by the Employer including Meter Technicians, Revenue Protection Technicians, Metering Design and Construction Consultants, Energy Technicians, Power Quality Technicians, Linemen, Maintenance Technicians, Corrosion Control Mechanics, Line Mechanics, Engineering Technicians, Regional Design and Construction Consultants, Contractor Liaisons, Gas Mechanics, Underground Mechanics, Aerial Mechanics, Electric Technicians, General Utility Employees, Paint Blasters, Material Coordinators, Equipment Operators, Drivers, Helpers, Mechanics, Body Mechanics, Preventive Maintenance Technicians, General Facilities Mechanics, High Rise PM Technicians, Plant Operations Mechanics, High Bill Consultants, Meter Services Clerks, Billing Consultants, Damage Prevention Inspectors, Maintenance Assistants, Engineering and Design Drafters and Designers, Regional Designers and Regional Engineering Assistants, the Electric Shop Junior Analyst and the Environmental Management and Field Services Lab Technicians; excluding all other employees, office clerical employees, guards and supervisors as defined in the Act.

## **VII. DIRECTION OF ELECTION**

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for the purposes of collective bargaining by **INTERNATIONAL BROTHERHOOD OF ELECTRICAL EMPLOYEES, AFL-CIO on behalf of INTERNATIONAL BROTHERHOOD OF ELECTRICAL EMPLOYEES LOCAL NO.**

614. The date, time, and place of the election will be specified in the Notice of Election that the Board's Regional Office will issue subsequent to this Decision.

**A. Voting Eligibility**

Eligible to vote in the election are those employees in the unit who were employed during the payroll period immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike that began less than 12 months before the election date and who retained their status as such during the eligibility period, and the replacements of those economic strikers. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employees who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

**B. Employer to Submit List of Eligible Voters**

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within **7** days of the date of this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the **full** names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting process, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106 on or before **April 28, 2003**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (215) 597-7658. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

**C. Notice of Posting Obligations**

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

**VIII. RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by 5:00 p.m., EDT on **May 5, 2003**.

Signed: April 21, 2003

at Philadelphia, PA

/s/

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DOROTHY L. MOORE-DUNCAN  
Regional Director, Region Four

440-1760-1580  
440-1760-1960  
440-1760-2460  
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